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PENNSYLVANIA BULLETIN

Volume 41

Number 21

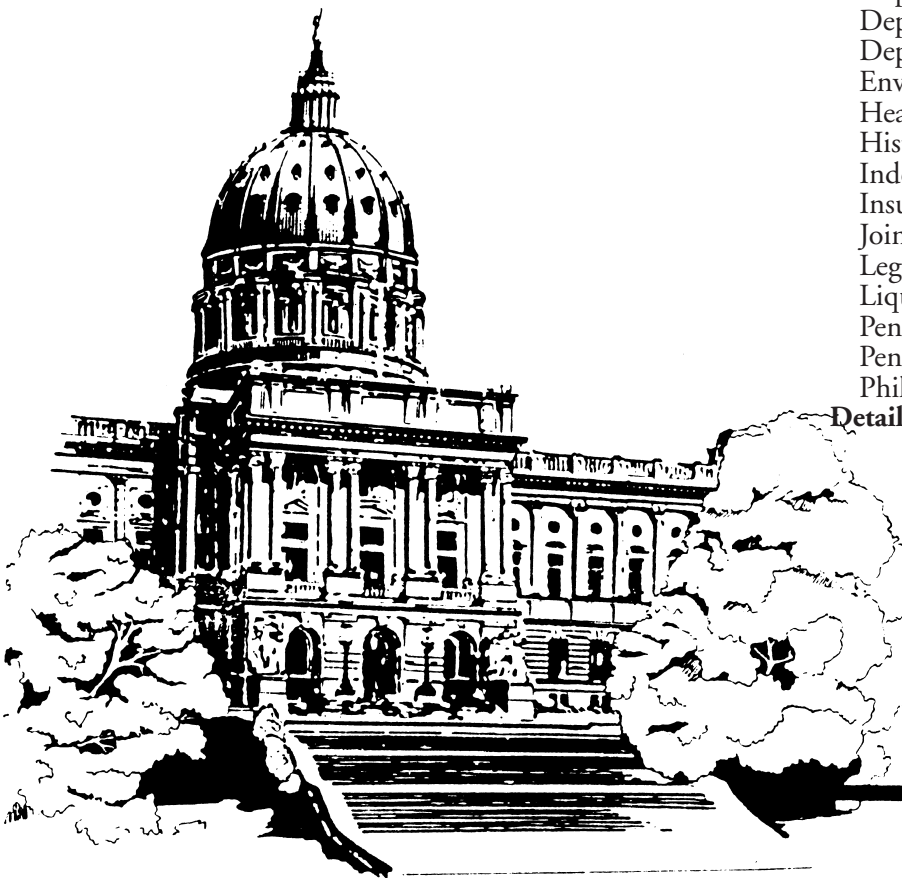
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No. 438, May 2011

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Pennsylvania Bulletin

The *Pennsylvania Bulletin* is the official gazette of the Commonwealth of Pennsylvania. It is published every week and includes a table of contents. A cumulative subject matter index is published quarterly.

The *Pennsylvania Bulletin* serves several purposes. First, it is the temporary supplement to the *Pennsylvania Code*, which is the official codification of agency rules and regulations and other statutorily authorized documents. Changes in the codified text, whether by adoption, amendment, repeal or emergency action must be published in the *Pennsylvania Bulletin*. Further, agencies proposing changes to the codified text do so in the *Pennsylvania Bulletin*.

Second, the *Pennsylvania Bulletin* also publishes: Governor's Executive Orders; State Contract Notices; Summaries of Enacted Statutes; Statewide and Local Court Rules; Attorney General Opinions; Motor Carrier Applications before the Public Utility Commission; Applications and Actions before the Department of Environmental Protection; Orders of the Independent Regulatory Review Commission; and other documents authorized by law.

The text of certain documents published in the *Pennsylvania Bulletin* is the only valid and enforceable text. Courts are required to take judicial notice of the *Pennsylvania Bulletin*.

Adoption, Amendment or Repeal of Regulations

Generally an agency wishing to adopt, amend or repeal regulations must first publish in the *Pennsylvania Bulletin* a Notice of Proposed Rulemaking. There are limited instances where the agency may omit the proposal step; they still must publish the adopted version.

The Notice of Proposed Rulemaking contains the full text of the change, the agency contact person, a fiscal note required by law and background for the action.

The agency then allows sufficient time for public comment before taking final action. An adopted proposal must be published in the *Pennsylvania*

Bulletin before it can take effect. If the agency wishes to adopt changes to the Notice of Proposed Rulemaking to enlarge the scope, they must re-propose.

Citation to the *Pennsylvania Bulletin*

Cite material in the *Pennsylvania Bulletin* by volume number and page number. Example: Volume 1, *Pennsylvania Bulletin*, page 801 (short form: 1 Pa.B. 801).

Pennsylvania Code

The *Pennsylvania Code* is the official codification of rules and regulations issued by Commonwealth agencies and other statutorily authorized documents. The *Pennsylvania Bulletin* is the temporary supplement to the *Pennsylvania Code*, printing changes as soon as they occur. These changes are then permanently codified by the *Pennsylvania Code Reporter*, a monthly, loose-leaf supplement.

The *Pennsylvania Code* is cited by title number and section number. Example: Title 10 *Pennsylvania Code*, § 1.1 (short form: 10 Pa.Code § 1.1).

Under the *Pennsylvania Code* codification system, each regulation is assigned a unique number by title and section. Titles roughly parallel the organization of Commonwealth government. Title 1 *Pennsylvania Code* lists every agency and its corresponding *Code* title location.

How to Find Documents

Search for your area of interest in the *Pennsylvania Code*.

The *Pennsylvania Code* contains, as Finding Aids, subject indexes for the complete *Code* and for each individual title, a list of Statutes Used As Authority for Adopting Rules and a list of annotated cases. Source Notes give you the history of the documents. To see if there have been recent changes, not yet codified, check the List of *Pennsylvania Code* Chapters Affected in the most recent issue of the *Pennsylvania Bulletin*.

The *Pennsylvania Bulletin* also publishes a quarterly List of Pennsylvania Code Sections Affected which lists the regulations in numerical order, followed by the citation to the *Pennsylvania Bulletin* in which the change occurred.

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Printing Format

Material proposed to be added to an existing rule or regulation is printed in **bold face** and material proposed to be deleted from such a rule or regulation is enclosed in brackets [] and printed in **bold face**. Asterisks indicate ellipsis of *Pennsylvania Code* text retained without change. Proposed new or additional regulations are printed in ordinary style face.

Fiscal Notes

Section 612 of The Administrative Code of 1929 (71 P. S. § 232) requires that the Office of Budget prepare a fiscal note for regulatory actions and administrative procedures of the administrative departments, boards, commissions or authorities receiving money from the State Treasury stating whether the proposed action or procedure causes a loss of revenue or an increase in the cost of programs for the Commonwealth or its political subdivisions; that the fiscal note be published in the *Pennsylvania Bulletin* at the same time as the proposed change is advertised; and that the fiscal note shall provide the following information: (1) the designation of the fund out of which the appropriation providing for expenditures under the action or procedure shall be made; (2) the probable cost for the fiscal year the program is implemented; (3) projected cost estimate of the program for each of the five succeeding fiscal years; (4) fiscal history of the program for which expenditures are to be made; (5) probable loss of revenue for the fiscal year of its implementation; (6) projected loss of revenue from the program for each of the five succeeding fiscal years; (7) line item, if any, of the General Appropriation Act or other appropriation act out of which expenditures or losses of Commonwealth funds shall occur as a result of the action or procedures; (8) recommendation, if any, of the Secretary of the Budget and the reasons therefor.

The required information is published in the foregoing order immediately following the proposed change to which it relates; the omission of an item indicates that the agency text of the fiscal note states that there is no information available with respect thereto. In items (3) and (6) information is set forth for the first through fifth fiscal years; in that order, following the year the program is implemented, which is stated. In item (4) information is set forth for the current and two immediately preceding years, in that order. In item (8) the recommendation, if any, made by the Secretary of Budget is published with the fiscal note. See 4 Pa. Code § 7.231 *et seq.* Where “no fiscal impact” is published, the statement means no additional cost or revenue loss to the Commonwealth or its local political subdivision is intended.

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THE GOVERNOR

GOVERNOR'S OFFICE

[EXECUTIVE ORDER NO. 2011-02]

Governor's Transportation Funding Advisory Commission

April 21, 2011

Whereas, The Commonwealth of Pennsylvania manages nearly 40,000 miles of roads and more than 25,000 bridges, which are components of the transportation system that are vital to the economic well being of Pennsylvania; and

Whereas, the local governments of Pennsylvania manage over 77,000 miles of roads, more than 6,400 locally owned bridges and 14,000 traffic signals, while facing significant funding challenges for the maintenance of their systems; and

Whereas, the commonwealth's 38 fixed transit route operators, which provide more than 400 million rides annually to the people of Pennsylvania, face the daunting challenge of meeting both operating and capital costs and, in order to sustain these critical operations, urgently need a stable and vibrant funding source; and

Whereas, Pennsylvania has aggressively assisted private sector operators in enhancing their systems, since effective use of rail freight corridors significantly eases congestion, especially on interstates, yet operators continue to need and seek support from state and federal governments for stronger public-private partnerships to further enhance rail freight; and

Whereas, there are more than 400 public and private use airports in Pennsylvania that support the movement of goods and people; and

Whereas, revenues from the Motor License Fund have lagged behind the significant rates of inflation in materials and construction costs needed to keep the road and bridge systems in a state of good repair; and

Whereas, in 2010, despite added initiatives aimed at restoring the bridge system, Pennsylvania ranked highest in the country for structurally deficient bridges, with more than 5,000 bridges so classified and an average bridge age in excess of 50 years, the same age as the design life of the bridge; and

Whereas, roughly 7,000 miles of pavement remain in poor condition and need immediate attention; and

Whereas, the Transportation Advisory Committee identified a \$3.5 billion gap in transportation funding; and

Whereas, many regions of the commonwealth have capacity expansion demands or critically needed connection improvements; and

Whereas, the commonwealth has a responsibility to ensure a transportation system that supports the quality of life of its citizens, including a robust economy; and

Whereas, the safety of drivers depends on a properly maintained and updated transportation system; and

Whereas, it is in the interest of the commonwealth that transportation be properly funded so as to maintain strong connections with economic and community development and that the funding be sustainable and effectively address system priorities; and

Whereas, it has been determined that the Governor and the commonwealth would benefit from the advice and counsel of an official advisory commission comprised of key stakeholders, including experts from the transportation industry, environmental community, business community, energy community, and local government representatives.

Now, Therefore, I, Tom Corbett, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby establish the Governor's Transportation Funding Advisory Commission (hereinafter referred to as the "Commission") as hereinafter set forth.

1. *Purpose.* The Commission shall develop a comprehensive, strategic proposal for addressing the transportation funding needs of Pennsylvania.

2. *Responsibilities.* The Commission shall:

a. Study and prepare a comprehensive listing of potential revenue sources available for current and future funding of transportation in the commonwealth for all modes of transportation. The funding sources must be reliable, dedicated, inflation sensitive and adaptive to changing environmental factors;

b. Provide interim reporting to the Governor, as determined to be appropriate by the Commission chair, as well as a Final Report, due on or before August 1, 2011;

c. Convene its first meeting no later than April 25, 2011, with subsequent meetings as determined by members of the Commission. A simple majority of the members shall constitute a quorum; and

d. Adopt rules of procedure consistent with the provisions of this Executive Order.

3. *Composition of the Commission.* The Commission shall consist of the following members:

a. The Secretary of Transportation, who shall serve as Chair of the Commission; and

b. A minimum of 30 and a maximum of 40 appointees, representing, inter alia, the interests of all transportation modes, environmental, energy, industry, local and state government, who shall be chosen by and serve at the pleasure of the Governor.

4. *Terms of Membership.* The members of the Commission shall serve from the date of their appointment by the Governor until August 1, 2011 or their removal from the Commission by the Governor, whichever occurs first. The Governor may fill vacancies that may occur and may remove any member from the Commission at his discretion.

5. *Compensation.* Members of the Commission will receive no compensation for their service as Commission members. Non-government members will be reimbursed for travel and related expenses in accordance with the commonwealth policy.

6. *Staffing.* The Department of Transportation shall provide administrative staff resources to support the Commission.

7. *Cooperation by State Agencies.* All agencies under the Governor's jurisdiction shall cooperate with and provide assistance and support as needed by the Commission to carry out its functions effectively.

8. *Reports.* In addition to the interim recommendations described above, the Commission shall submit to the Governor a final report on the Commission's activities on or before August 1, 2011.

9. *Effective Date.* This Executive Order shall take effect immediately.

10. *Termination Date.* This Executive Order shall remain in effect until August 1, 2011.



Governor

Fiscal Note: 2011-02. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 11-837. Filed for public inspection May 20, 2011, 9:00 a.m.]

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CH. 83]

Proposed Amendments to the Rules of Disciplinary Enforcement to Provide for Electronic Filing of the Annual Fee Form, Automatic Assessment of Late Payment Penalties, and a Request by an Attorney for Contact Information to be Non-public Information

Notice is hereby given that The Disciplinary Board of the Supreme Court of Pennsylvania is considering recommending to the Pennsylvania Supreme Court that the Court amend Pennsylvania Rules of Disciplinary Enforcement 218 and 219 as set forth in Annex A.

Enforcement Rule 219 establishes the procedure governing the annual registration of attorneys admitted to practice law in the Commonwealth. The proposed amendments to Rule 219 constitute a significant departure from prior procedure, in three respects.

First, additions to subdivisions (a), (c) and (d) give an attorney the option of filing the annual fee form by electronic medium. The new rule codifies electronic filing, which was implemented by the Disciplinary Board with the assistance of the Administrative Office of Pennsylvania Courts for use by attorneys beginning with the 2011-2012 registration year.

Second, new Rule 219 would eliminate the requirement of sending delinquency notices to attorneys who fail to timely register by July 1 and would provide for two non-waivable late payment penalties, the first to be automatically assessed on July 15 (fifteen days after the due date) and the second to be automatically assessed on September 1 (48 days after the initial delinquency assessment).

Delinquency notices are unnecessary because Rule 219 provides adequate notice to attorneys to register on an annual basis and to do so by July 1. All attorneys are required to be familiar with the rules, and Rule 219 provides constructive notice to all Pennsylvania attorneys of their obligation to complete registration by July 1. In addition, the notice provisions of subdivisions (a) and (c), which require the Attorney Registration Office, by May 15 of each year, to mail the annual fee form to all Pennsylvania attorneys or to electronically transmit an e-mail notice to those attorneys who have elected in the previous year to file the form electronically, are adequate to inform or remind attorneys of their duty to register and to do so by July 1. The Board does not believe that the Attorney Registration Office is obligated to send reminder notices to attorneys who are delinquent in complying with their obligation.

Rule 219 also gives attorneys sufficient time to complete registration in a timely manner. Because the Attorney Registration Office must, under subdivision (c), mail or e-mail the required notice to attorneys by May 15, an attorney has well over thirty days to meet the July 1 due date. Additionally, new subdivision (f), which establishes

the delinquency procedure, contains an automatic fifteen-day extension of time in which to complete registration.

New subdivision (f) provides that after the assessment of the second late payment penalty, the Attorney Registration Office will refer the names of non-compliant attorneys to the Supreme Court, which shall enter an order administratively suspending those attorneys. The late payment penalties should serve as an incentive to all attorneys to be timely in completing registration and as a penalty to those who intend to continue to practice beyond the July 1 deadline undeterred by the prospect of practicing in violation of our Supreme Court's Enforcement Rule.

The third procedural change to Rule 219 is contained in subdivision (d)(1)(ii). An attorney may request through the Attorney Registration Office that the contact information provided by the attorney on the annual fee form or submitted electronically not be published on the Board's website or otherwise disclosed. The request must be in writing and provide "good cause" for the grant of the request. Subdivision (d)(1)(ii) does not preclude the Board from making disclosure when the Board is served with a valid subpoena.

The proposed addition to subdivision (d) of Enforcement Rule 218, new subdivisions (g)(2)(iii) and (h)(1) of that rule, and additions to subdivisions (j) of Rule 219, are all designed to make clear that the lodestar for determining whether an attorney must file a formal petition to be reinstated to active status after becoming inactive, retired, administratively suspended, or suspended for a term not exceeding one year, is an uninterrupted term of license inactivity that exceeds three years, not the length of the attorney's current status. By way of explanation, the Supreme Court and the Board have always intended that an attorney whose licensing status is non-active for a period exceeding three years, must file a petition for reinstatement under Rule 218 to be reinstated. Under the current rules, there are three administrative registration statuses (inactive, retired, and administratively suspended) and one disciplinary status (suspension for a period not exceeding one year) that do not automatically require a petition for reinstatement if the attorney desires to return to active status. Each of the three administrative statuses could be held for less than three years, and the disciplinary status could expire within one year or less, but the combined length of any two or more of these statuses could exceed three years. For example, an attorney could be on inactive status for only six months at the time the attorney seeks a return to active status, but a contiguous preceding term of inactive status followed by a term of administrative suspension, when combined with the current six-month term of inactive status, might result in a total term of license inactivity exceeding three years, in which case the attorney must apply for reinstatement under the provisions of Rule 218(d). Simply stated, any attorney whose licensing status is other than active and who has not been on active status at any time within the preceding three years, must petition for reinstatement under the provisions of Rule 218 rather than any provision that may be found in Rule 219. Given the current structure of the rules and existing options that permit an attorney to change his or her registration status, the Board anticipates that some attorneys may hold several registration statuses during any given three-year period.

The current practice of the Attorney Registration Office is to permit an inactive attorney who is administratively suspended to resume inactive status upon the filing of the annual fee form, payment of the annual fee, and payment of all collection fees and late payment penalties. New subdivision (k) of Enforcement Rule 219 codifies that agency practice. Subsection (4) of subdivision (k) requires the attorney to pay an administrative processing fee of \$100.00, which fee will cover the time and cost of reviewing the attorney's records, calculating the fees and penalties, and changing the records to reflect the new status.

In contrast with an administrative transfer from administrative suspension to inactive status but also consistent with agency practice, new subdivision (k) explains that an active attorney who has been administratively suspended for failure to file the annual form and pay the annual fee must be reinstated to active status under subdivision (h) before becoming eligible to register as inactive or retired.

Finally, subdivision (k) of current Rule 219, which established a grace period of one year commencing on July 1, 2009 in which any attorney who was inactive by court order could request and achieve active status in order to avoid transfer to administrative suspension, is eliminated. Because of its historical significance in understanding how some attorneys who were previously inactive came to be administratively suspended, the substance of subdivision (k) is included in an explanatory Note that appears at the end of subdivision (k).

Interested persons are invited to submit written comments by mail or facsimile regarding the proposed amendments to the Office of the Secretary, The Disciplinary Board of the Supreme Court of Pennsylvania, 601 Commonwealth Avenue, Suite 5600, PO Box 62625, Harrisburg, PA 17106-2625, Facsimile number (717-231-3382) on or before July 1, 2011.

*By The Disciplinary Board of the
Supreme Court of Pennsylvania*

ELAINE M. BIXLER,
Secretary

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart B. DISCIPLINARY ENFORCEMENT

CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

Subchapter B. MISCONDUCT

Rule 218. Reinstatement.

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(d) The procedure for petitioning for reinstatement from: retired status for more than three years[,]; inactive status for more than three years [or]; administrative suspension for more than three years[,]; **retired status, inactive status or administrative suspension if the formerly admitted attorney has not been on active status at any time within the past three years;** or after transfer to inactive status as a result of the sale of a law practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct, is as follows:

* * * * *

(g) (1) Upon the expiration of any term of suspension not exceeding one year and upon the filing thereafter by the formerly admitted attorney with the Board of a verified statement showing compliance with all the terms and conditions of the order of suspension and of Enforcement Rule 217 (relating to formerly admitted attorneys), the Board shall certify such fact to the Supreme Court, which shall immediately enter an order reinstating the formerly admitted attorney to active status, unless such person is subject to another outstanding order of suspension or disbarment.

(2) Paragraph (1) of this subdivision shall not be applicable and a formerly admitted attorney shall be subject instead to the other provisions of this rule requiring the filing of a petition for reinstatement, if:

(i) other formal disciplinary proceedings are then pending or have been authorized against the formerly admitted attorney;

(ii) the formerly admitted attorney has been on **retired status, inactive status or administrative suspension** for more than three years; [or]

(iii) **on the date of the entry of the order of suspension, the formerly admitted attorney was on retired status, inactive status or administrative suspension and had not been on active status at any time within the three-year period preceding the entry of the order;** or

(iv) the order of suspension has been in effect for more than three years.

(h) Attorneys who have been on inactive status, retired status or administrative suspension for three years or less may be reinstated **to the roll of those classified as active** pursuant to Enforcement Rule 219(h), (i), (j)[, (k)] or (m) (relating to periodic assessment of attorneys) as appropriate. This subdivision (h) does not apply to:

(1) **a formerly admitted attorney who, on the date of the filing of the request for reinstatement, had not been on active status at any time within the preceding three years; or**

(2) an attorney who has sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct.

* * * * *

Rule 219. [**Periodic assessment**] **Annual registration** of attorneys[; **voluntary inactive status**].

(a) Every attorney admitted to practice law in this Commonwealth[,] shall pay an annual fee of \$135.00 [**under**] and **file the annual fee form provided for in this rule.** The [**annual**] fee shall be collected under the supervision of the Attorney Registration Office, which shall send [**and receive,**] or cause to be sent [**and received, the notices and forms provided for in this rule**] to every attorney, **except an attorney who has elected to file the form electronically, the annual fee form. The Attorney Registration Office shall transmit to those attorneys who have elected to file the form electronically a notice by e-mail to register by July 1. Failure to receive the annual fee form by mail or electronically shall not excuse payment of the fee.** The said fee shall be used to defray the costs of disciplinary administration and enforcement under these rules, and for such other purposes as the Board shall, with the approval of the Supreme Court, from time to time determine.

* * * * *

(c) On or before May 15 of each year the Attorney Registration Office shall transmit **[by ordinary mail]** to all **[persons]** attorneys required by this rule to pay an annual fee, **except those attorneys who have elected electronic filing**, a form required by subdivision (d) of this rule. **On or before May 15 of each year subsequent to the year in which an attorney elects electronic filing, the Attorney Registration Office shall transmit to such attorney a notice by e-mail to register by July 1.**

(d) On or before July 1 of each year all **[persons]** attorneys required by this rule to pay an annual fee shall file with the Attorney Registration Office a signed **or electronically endorsed** form prescribed by the Attorney Registration Office in accordance with the following procedures:

(1) The form shall set forth:

* * * * *

(ii) The current residence and office addresses of the attorney, each of which shall be an actual street address or rural route box number, and the Attorney Registration Office shall refuse to accept a form that sets forth only a post office box number for either required address. A preferred mailing address different from those addresses may also be provided on the form and may be a post office box number. The attorney shall indicate which of the addresses, the residence, office or mailing address, **as well as telephone and fax number** will be accessible through the website of the Board (<http://www.padisiplinaryboard.org/>) and by written or oral request to the Board. **Upon an attorney's written request submitted to the Attorney Registration Office and for good cause shown, the contact information provided by the attorney will be nonpublic information and will not be published on the Board's website or otherwise disclosed.**

* * * * *

Official Note: The Disciplinary Board will make the information regarding insurance available to the public upon written or oral request and on its web site. The requirement of Rule 219(d)(3) that every attorney who has filed an annual **[registration]** fee form **or elects to file the form electronically** must notify the Attorney Registration Office **[in writing]** of any change in the information previously submitted within 30 days after such change will apply to the information regarding insurance.

(vii) Such other information as the Attorney Registration Office may from time to time direct.

(2) Payment of the annual fee shall accompany the form. **IOLTA, trust, escrow and other fiduciary account checks tendered in payment of the annual fee will not be accepted. [Where] If the form and payment are incomplete or if a check in payment of the annual fee has been returned to the Board unpaid, the annual fee shall not be deemed to have been paid until a collection fee, and one or both of the late payment penalties prescribed in subdivision (f) of this rule if assessed, shall also have been paid.** The amount of the collection fee shall be established by the Board annually after giving due regard to the direct and indirect costs incurred by the Board during the preceding year for checks returned to the Board unpaid.

(3) Every **[person]** attorney who has filed **[such a]** the form **or elects to file the form electronically**

shall notify the Attorney Registration Office **[in writing]** of any change in the information previously submitted, **including e-mail address**, within 30 days after such change.

* * * * *

(f) **[The Attorney Registration Office shall transmit by ordinary mail to every attorney who fails to timely file the form and pay the annual fee required by this rule, addressed to the last known mailing address of the attorney, a notice stating:**

(1) **That unless the attorney shall comply with the requirements of subdivision (d) of this rule within 30 days after the date of the notice, such failure to comply will be deemed a request to be administratively suspended, and at the end of such period the name of the attorney will be certified to the Supreme Court, which will enter an order administratively suspending the attorney.**

(2) **That upon the entry of an order of administrative suspension, the attorney shall comply with Enforcement Rule 217 (relating to formerly admitted attorneys), a copy of which shall be enclosed with the notice.]**

Any attorney who fails to complete registration by July 15 shall be automatically assessed a non-waivable late payment penalty established by the Board. A second, non-waivable late payment penalty established by the Board shall be automatically added to the delinquent account of any attorney who has failed to complete registration by September 1, at which time the continued failure to comply with this rule shall be deemed a request to be administratively suspended. Thereafter, the Attorney Registration Office shall certify to the Supreme Court the name of every attorney who has failed to comply with the registration and payment requirements of this rule, and the Supreme Court shall enter an order administratively suspending the attorney. The Chief Justice may delegate the processing and entry of orders under this subdivision to the Prothonotary. Upon entry of an order of administrative suspension, the Attorney Registration Office shall transmit by certified mail, addressed to the last known mailing address of the attorney, or by electronic means, the order of administrative suspension and a notice that the attorney shall comply with Enforcement Rule 217 (relating to formerly admitted attorneys), a copy of which shall be included with the notice.

For purposes of assessing the late payment penalties prescribed by this subdivision (f), registration shall not be deemed to be complete until the Attorney Registration Office receives a completed annual fee form and satisfactory payment of the annual fee and of all outstanding collection fees and late payment penalties. If a check in payment of the delinquency has been returned to the Board unpaid, a collection fee, as established by the Board under subdivision (d)(2) of this rule, shall be added to the attorney's delinquent account and registration shall not be deemed to be complete until the delinquent account has been paid in full.

The amount of the late payment penalties shall be established by the Board annually pursuant to the provisions of subdivision (h)(3) of this Enforcement Rule.

(g) [**The Attorney Registration Office shall certify to the Supreme Court the names of every attorney who has failed to respond to a notice issued pursuant to subdivisions (f) and (l) of this rule within the 30-day period provided therein and the Court shall enter an order administratively suspending the attorney. A] The Attorney Registration Office shall provide to the Board Secretary a copy of any [such] certification [from] filed by the Attorney Registration Office [to] with the Supreme Court [shall be given to the Board Secretary] pursuant to the provisions of this Enforcement Rule. [The Chief Justice may delegate the processing and entry of orders under this subdivision to the Prothonotary.]**

(h) The procedure for reinstatement of an attorney who has been administratively suspended pursuant to subdivision (f) for three years or less [pursuant to subdivision (g)] is as follows:

(1) The formerly admitted attorney shall submit to the Attorney Registration Office the form required by subdivision (d)(1) along with payment of:

* * * *

(iii) the late payment [**penalty**] **penalties** required by paragraph (3);

(iv) **any unpaid collection fee;**

(v) a reinstatement fee of \$300.00.

(2) Upon receipt of the annual fee form, a verified statement showing compliance with Enforcement Rule 217 (relating to formerly admitted attorneys), and the payments required by paragraph (1), the Attorney Registration Office shall so certify to the Board Secretary and to the Supreme Court. Unless the formerly admitted attorney is subject to another outstanding order of suspension or disbarment or the order has been in effect for more than three years, the filing of the certification from the Attorney Registration Office with the Prothonotary of the Supreme Court shall operate as an order reinstating the person to active status.

Where a check in payment of the fees and late payment penalties has been returned to the Board unpaid, the Attorney Registration Office shall immediately return the attorney to administrative suspension, and the arrears shall not be deemed to have been paid until a collection fee, as established by the Board under subdivision (d)(2) of this rule, shall also have been paid.

(3) A formerly admitted attorney who is administratively suspended [pursuant to subdivision (g)] must pay [a] the late payment [**penalty with respect to that year**] **penalties** incurred in the year in which the formerly admitted attorney is transferred to administrative suspension. The amount of the late payment [**penalty**] **penalties** shall be established by the Board annually after giving due regard to such factors as it considers relevant, including the direct and indirect costs incurred by the Board during the preceding year in processing the records of attorneys who fail to timely file the [**statement**] form required by subdivision (d) of this rule.

* * * *

(j) *Inactive Status:* An attorney who is not engaged in practice in Pennsylvania, has sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct, or is not required by virtue of his or her practice elsewhere to maintain active licensure in the Commonwealth may request [**voluntary**] inactive status or continue that status once assumed. The attorney shall be removed from the roll of those classified as active until **and unless** such [**person requests**] **inactive attorney makes a request under paragraph (2) of this subdivision (j) for an administrative return to active status and satisfies all conditions precedent to the grant of such request; or files a petition for reinstatement under subdivision (d) of Enforcement Rule 218)** (relating to procedure for reinstatement of an attorney who has been on inactive status for more than three years, or who is on inactive status and had not been on active status at any time within the prior three years) and is granted reinstatement [to the active rolls] pursuant to the provisions of that Enforcement Rule.

(1) An inactive attorney under this subdivision (j) shall continue to file the annual form required by subdivision (d) and shall pay an annual fee of \$70.00. Noncompliance with this provision will result in the inactive attorney incurring late payment penalties, incurring a collection fee for any check in payment that has been returned to the Board unpaid, and being placed on administrative suspension [after the Attorney Registration Office provides notice], pursuant to and in accordance with the provisions of [**paragraph (f)**] subdivision (f) of this rule. [**An attorney who voluntarily assumed inactive status under former subdivision (j) of this rule shall continue to file the annual form required by subdivision (d) and pay an annual fee of \$70.00 commencing with the next regular assessment year. Noncompliance with this provision will result in the inactive attorney being placed on administrative suspension after notice in accordance with the provisions of paragraph (f).**]

(2) [**Reinstatement**] *Administrative Change in Status from Inactive Status to Active Status:* An attorney on inactive status may request resumption of active status on a form provided by the Attorney Registration Office. Resumption of active status shall be granted unless the inactive attorney is subject to an outstanding order of suspension or disbarment [or], unless the inactive attorney has sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct (see Enforcement Rule 218(h)), unless the inactive status has been in effect for more than three years, or unless the inactive attorney had not been on active status at any time within the preceding three years (see Enforcement Rule 218(h)), upon the payment of:

(i) the active fee for the assessment year in which the application for resumption of active status is made or the difference between the active fee and the inactive fee that has been paid for that year[,]; and

(ii) any [**arrears accumulated prior to the assumption of inactive status**] collection fee or late payment penalty that may have been assessed pursuant to subdivision (f), prior to the inactive attorney's request for resumption of active status.

[(3) In transmitting the annual fee form under subdivision (c) of this rule, the Attorney Registration Office shall include a notice of this subdivision (j).

Official Note: Under prior practice, an attorney who was neither retiring nor selling his or her law practice was given the option of assuming or continuing inactive status and ceasing the practice of law in Pennsylvania, and no annual fee was required. Under new subdivision (j), payment of an annual fee is required to assume and continue inactive status, and failure to pay the annual fee required by subdivision (j) and file the form required by subdivision (d) will result in an order administratively suspending the attorney.

(k) On the effective date of this subdivision (k), any attorney who is on inactive status:

(1) by order after having failed to pay the annual fee or file the form required by subdivisions (a) and (d) of this rule,

(2) by order pursuant to Rule 111(b), Pa.R.C.L.E., after having failed to satisfy the requirements of the Pennsylvania Rules for Continuing Legal Education,

(3) by order after having failed to pay any expenses taxed pursuant to Enforcement Rule 208(g), or

(4) by order after having failed to meet the requirements for maintaining a limited law license as a Limited In-House Corporate Counsel, a foreign legal consultant, an attorney participant in defender legal services programs pursuant to Pa.B.A.R. 311, or a military attorney, shall have a grace period of one year, commencing on July 1 of the year in which the next annual form under paragraph (d) is due, in which to request reinstatement to active status under an applicable provision of this rule, or to be reinstated to active status under Rule 218(a), as the case may be. Failure to achieve active status before the expiration of the grace period shall be deemed a request to be administratively suspended. An attorney who is on inactive status by court order will not be eligible to transfer to voluntary inactive status under subdivision (j) of this rule until the attorney first achieves active status. During the grace period, the inactive attorney shall remain ineligible to practice law. In transmitting the annual form under subdivision (c) of this rule, the Attorney Registration Office shall include a notice of this subdivision (k).

Official Note: Attorneys who voluntarily assumed inactive status under former paragraph (j) of Enforcement Rule 219 are governed by the provisions of paragraph (j). Attorneys who were transferred to inactive status by order after having failed to pay any expenses taxed pursuant to Enforcement Rule 208(g) are governed by the provisions of paragraph (m).]

Where a check in payment of fees and penalties has been returned to the Board unpaid, the Attorney Registration Office shall immediately return the attorney to inactive status, and the arrears

shall not be deemed to have been paid until a collection fee, as established by the Board under subdivision (d)(2), shall also have been paid.

Official Note: Subdivisions (h), (i) and (j) of this Enforcement Rule do not apply if, on the date of the filing of the request for reinstatement, the formerly admitted attorney has not been on active status at any time within the preceding three years. See Enforcement Rule 218(h)(1).

(k) **Administrative Change in Status From Administrative Suspension to Inactive Status:** An inactive attorney who has been administratively suspended for failure to file the annual form and pay the annual fee required by subdivision (j)(1) of this rule, may request an administrative change in status to inactive status. The Attorney Registration Office shall change the status of an attorney eligible for inactive status under this subdivision upon receipt of:

(1) the annual form required by subdivision (d);

(2) payment of the annual fee required by subdivision (j)(1);

(3) payment of all collection fees and late payment penalties assessed under subdivisions (d)(2) and (f); and

(4) payment of an administrative processing fee of \$100.00.

Where a check in payment of the fees and penalties has been returned to the Board unpaid, the Attorney Registration Office shall immediately return the attorney to administrative suspension, and the arrears shall not be deemed to have been paid until a collection fee, as established by the Board under subdivision (d)(2), shall also have been paid.

An active attorney who has been administratively suspended for failure to file the annual form and pay the annual fee required by this rule must comply with subdivision (h) before becoming eligible to register as inactive or retired.

Official Note: Former subdivision (k), which was adopted by Order dated April 16, 2009 (No. 75 Disciplinary Rules Docket No. 1, Supreme Court), effective May 2, 2009, established a grace period of one year commencing on July 1, 2009 in which any attorney who was on inactive status by order of the Supreme Court, could request and achieve reinstatement to active status under Enforcement Rule 218 or another applicable subdivision of Enforcement Rule 219 in order to avoid an automatic change in status to administrative suspension. The grace period was administratively extended to August 31, 2010, and any involuntarily inactive attorney who did not achieve active status by that date was transferred to administrative suspension on September 1, 2010.

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[Pa.B. Doc. No. 11-838. Filed for public inspection May 20, 2011, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CH. 4]

Proposed Amendments to Rule 407

The Committee is soliciting public input on the following proposal. The Committee is reserving its Report until after public comment has been received.

The Committee requests that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel, Christine Riscili at juvenilerules@pacourts.us. Email is the preferred method for receiving comments in an effort to conserve paper and expedite the distribution of Comments to the Committee. Emailed comments need not be reproduced and sent via hard copy. The Committee will acknowledge receipt of your comment.

For those who do not have access to email, comments may be faxed to the Committee at 717-231-9541 or written comments may be mailed to:

Christine Riscili, Esq., Counsel
Supreme Court of Pennsylvania
Juvenile Court Procedural Rules Committee
Pennsylvania Judicial Center
601 Commonwealth Ave, Suite 6200
P. O. Box 62635
Harrisburg, PA 17106-2635.

All comments shall be received no later than June 15, 2011. No deadline extensions will be granted.

*By the Juvenile Court
Procedural Rules Committee*

CYNTHIA K. STOLTZ, Esq.,
Chair

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart A. DELINQUENCY MATTERS

CHAPTER 4. ADJUDICATORY HEARING

Rule 407. Admissions.

A. *Admissions*. At any time after a petition is filed, the juvenile may [tender an admission to the facts, adjudication of delinquency and/or disposition] admit to a delinquent act.

1) *Requirements*.

a) Before the court [can] may accept an admission, [the court shall determine that the admission is made voluntarily and knowingly. The court, at a minimum, shall ask questions to elicit the following information] the juvenile must complete a written admission colloquy. The written admission colloquy shall be:

[a) Does the juvenile understand the nature of the allegations to which he or she is admitting?

b) Is there a factual basis for the admission?

c) Does the juvenile understand that he or she has the right to a hearing before the judge?

d) Does the juvenile understand that he or she is presumed innocent until found delinquent?

e) Is the juvenile aware of the dispositions that could be imposed?

f) Is the juvenile aware that the judge is not bound by the terms of any agreement tendered unless the judge accepts such agreement?

g) Has the juvenile spoken with his or her attorney or waived the right to counsel in accordance with Rule 152?

h) Does the juvenile have any questions about admitting to the facts or delinquency based on the allegations?

(i) Has the juvenile had the opportunity to speak with a guardian about his or her decision?]

ii) in substantially the form following this rule and entitled "Admission Colloquy";

iii) completed and reviewed with the juvenile by the juvenile's attorney, unless the juvenile has waived counsel in accord with Rule 152; and

iv) submitted to the court.

b) Before the court may accept an admission, the court shall determine in an on the record proceeding that the admission is knowingly, intelligently and voluntarily made. As part of this determination, the court shall conduct a searching inquiry concerning the following:

i) Does the juvenile appear to be fluent in English? If not, has he received the assistance of an interpreter fluent in his native language?

ii) Has the juvenile had the opportunity to speak with a parent or guardian about his decision?

iii) Does the juvenile understand the nature of the allegations to which he is admitting?

iv) Is there is a factual basis for the admission?

v) Does the juvenile understand that by admitting to the delinquent act(s), he is giving up the right to be presumed innocent; the right to a hearing before a judge; the right to remain silent; the right to testify; the right to confront witnesses; the right to present witnesses and evidence; and, if convicted, the right to have a higher court review the trial court's decision, except on very limited grounds?

vi) Has the juvenile's attorney, if counsel has not been waived pursuant to Rule 152, completed and reviewed the written admission colloquy in accord with paragraph (A)(1)(a)(ii)?

vii) Is the juvenile aware of the dispositions that could be imposed and the ramifications of an adjudication of delinquency?

viii) After reviewing the written admission colloquy, the court shall inquire further of the juvenile regarding any matters of concern apparent from such review.

ix) Does the juvenile have any questions about the admission?

2) *Agreements*. If the [parties agree] Commonwealth and the juvenile have agreed upon the terms of [an admission] the adjudication and/or disposition, the [tender] agreement shall be presented to the court before or during the on the record proceeding referenced at paragraphs (A)(1)(b) hereof.

3) *Court action.* If the court accepts the [**tender**] **agreement**, the court shall enter an order incorporating [**any agreement**] it. If the court does not accept the [**tender**] **agreement**, the case shall proceed **before another judge** as if no [**tender had**] admission had ever been [**made**] **proffered**.

4) *Limitations on withdrawals.* An admission [**can-not**] may be withdrawn [**after the court enters the dispositional order**] at any time for any reason **before disposition, in the court's discretion. Following disposition, an admission can only be withdrawn upon a demonstration of manifest injustice.**

B. *Incriminating statements.* An incriminating statement made by a juvenile [**in the discussions or conferences**] at any juncture incident to an admission that is not ultimately accepted [**by the court or otherwise**] or is permitted to be withdrawn by the court shall not be used against the juvenile over objection in any [**criminal**] proceeding [**or hearing**] under the Juvenile Act, 42 Pa.C.S. § 6301 *et seq.* or in any adult criminal proceeding.

ADMISSION COLLOQUY

In re	:	JD
Juvenile	:	Delinquent Acts:
	:	_____
	:	
	:	
	:	

Answer all of the questions on this form. If you do not understand any question, ask your lawyer and/or the judge at the oral colloquy.

1) I admit that I did the following things: _____

Knowing and voluntary admission:

2) How old are you? _____

3) What grade have you completed in school? _____

4) Are you currently being treated for a mental illness? _____

5) In the last 24 hours, have you taken any drugs (prescription, over the counter, or illegal) and/or alcohol that would impair your ability to make an informed decision? _____

6) Has anyone threatened or forced you to sign this admission? _____

7) Have you been promised anything in return for your admission? _____

8) Has your lawyer explained to you that what you did was a delinquent act, and, therefore, against the law? _____

9) Do you understand if the court accepts your admission it will find you delinquent, which is the official finding that you broke the law? _____

Possible consequences of a finding of delinquency:

10) Do you understand that if you are found delinquent, the court may order a range of services or supervision, which could include placement outside of your home? _____

11) Do you understand that if you are found delinquent, your driving license may be suspended now or in the future? _____

12) Do you understand that if you are found delinquent your record may be used against you in a future hearing in juvenile or adult court? For example, if you commit a crime in the future, this finding of delinquency could result in a longer sentence in adult criminal court. _____

13) Do you understand that if you are found delinquent certain information may become available to the public, and when you apply for college, military, or a job, your potential college, military recruiter, or employer may be able to learn of your juvenile record? _____

Admission agreements:

14) Are you aware that the court does not have to accept any agreement between the Commonwealth and you, but if the court rejects an agreement, you have the right to a completely new proceeding before a different judge? _____

Appeals:

15) If you are found delinquent following an admission, you can have a higher court review your case for only three reasons:

a) You argue that your admission was not knowingly, intelligently, and voluntarily made;

b) You argue that the court was not the proper court to accept your admission; or

c) You argue that the court's disposition (sentence) is illegal.

16) If you do not admit delinquency, you may have other rights if you take an appeal.

Lawyer's representation where counsel has not been waived, and the opportunity to speak with guardian:

17) Are you satisfied with what your lawyer did for you and how your lawyer explained everything? _____

18) Have you had the opportunity to speak with your parent(s) or guardian(s) about your decision to admit to the delinquent acts? _____

I promise that I have read the above form. I understand its full meaning and I am still admitting to the acts of delinquency. My admission is of my own free will. I believe that this admission is in

my best interest. The signature and initials on each page of this form are mine.

JUVENILE

DATE

I, _____ Esq., Lawyer for _____ state that I have reviewed this colloquy with my client and my client has indicated to me that he or she comprehends and understands what is set forth above.

LAWYER FOR JUVENILE

DATE

(Or leave blank if you waived counsel under Rule 152).

Comment

[Under paragraph (A)(1), the court is to determine if the admission is voluntarily and knowingly made. Nothing in this rule is intended to prevent the court from using a written form to ascertain the necessary information, provided the court asks questions of the juvenile, on the record, to authenticate the juvenile's completion and understanding of the form and the juvenile's agreement with the statements made.

Under paragraph (A)(3), if the disposition agreed upon by the parties is unavailable or the court does not agree with the terms of the tender, the case is to proceed as if no tender had been made.]

This new rule requires both a written admission colloquy and an on the record proceeding. Premised upon the supposition that the knowing, intelligent and voluntary nature of an admission will be better assessed when the trial judge speaks with the juvenile, this rule is designed to require a shorter, more understandable and meaningful written admission colloquy, and to mandate that the trial judge conduct a searching inquiry to ensure that the admission is voluntary, knowing and intelligent. In furtherance of this goal, the rule requires that the trial judge read the written admission colloquy and thoroughly explore any factors raised therein which could impact the knowing, voluntary and intelligent nature of the admission. The expectation is that at the conclusion of the written admission colloquy and on the record proceedings, the process will work to ensure a comprehensive review by the trial judge of the juvenile's admission.

Paragraph (A)(1)(a) sets forth the overarching criteria for the written admission colloquy.

Paragraph (A)(1)(b) sets forth the overarching criteria for the on the record proceeding during which the trial judge may accept the written admission colloquy, and details the information the trial judge must elicit from the juvenile during the on the record proceeding regarding acceptance of the colloquy. Ultimately, it falls to the trial judge to ensure that the juvenile has knowingly, intelligently, and voluntarily made an admission by asking questions to ascertain the ability of the juvenile to comprehend the written admission colloquy and to enter into the admission. In paragraph (A)(1)(b),

the rule sets forth its mandate that the trial judge shall review the written admission colloquy and examine carefully all potential concerns arising from the juvenile's answers. It should be readily apparent to the trial judge conducting the on the record proceeding whether the juvenile speaks fluent English. If there is any doubt, paragraph (A)(1)(b)(i) makes it incumbent upon the trial judge to protect the juvenile who for whatever reason does not read English well enough to understand the form. The expectation is that an appropriate individual will be provided to the juvenile, and will ensure that the juvenile fully understands the form and all of its consequences.

At (A)(1)(b)(v), the rule requires that during the on the record proceeding the trial judge ensures that the juvenile understands the basic constitutional rights which are being waived as a result of the juvenile's decision to admit delinquency.

Paragraph (A)(2) requires that if the Commonwealth and juvenile have agreed upon the terms of either the adjudication of delinquency or the disposition of the case, the agreement shall be presented to the trial judge during the on the record proceeding regarding the written admission colloquy.

Paragraph (A)(3) provides that the trial judge has the traditional discretion to accept or reject such agreement. If the court accepts the agreement, it shall be incorporated into the order accepting the written admission colloquy, and finding that the juvenile has knowingly, intelligently, and voluntarily entered into the admission. Importantly, if the trial judge does not accept the agreement, the juvenile shall have a right to a *de novo* proceeding before another judge, which shall occur as if no admission had ever been proffered.

Paragraph (A)(4) provides that if a juvenile desires to withdraw the admission even though the trial judge is willing to accept it, the admission can be withdrawn at any time for any reason before disposition so long as the trial judge, in its discretion, grants permission. Following disposition, the admission can only be withdrawn upon a demo.

Paragraph B provides that to the extent that the admission is not accepted in accord with paragraph (A)(3) or is accepted but then withdrawn by the juvenile in accord with paragraph (A)(4), any incriminating statements made by the juvenile shall not be used against the juvenile over objection in any juvenile or adult criminal proceeding.

As stated at the outset of this comment, the written admission colloquy is intended to be readily understandable to the juvenile, and to serve to raise potential areas necessitating furthering inquiry by the trial judge during the on the record proceedings.

No. 1 of the written admission colloquy asks the juvenile to state "that I did the following things." The formal charges will be listed in the caption. The purpose of this inquiry is to permit the juvenile to state in his/her own words what he/she did. For instance, the juvenile could recite that he took Ms. Smith's purse, when the captioned act may just say "robbery." As further example, the juvenile might say I "beat up Joe," where the captioned act may just say "simple assault." As set forth above, the purpose of the written admission colloquy is to

emphasize for the trial judge areas necessitating further inquiry during the on the record proceeding. This is one place where that could occur.

No. 4 of the written admission colloquy asks whether the juvenile is currently being treated for mental illness. Presumably the trial judge will know whether the juvenile has been transported from a mental health facility, but it may not know if he is under current outpatient treatment for a mental illness. If the juvenile answers yes, further inquiry is mandated.

No. 5 of the written admission colloquy asks whether in the last 24 hours the juvenile has taken any drugs and/or alcohol that would impair the juvenile's ability to make an informed decision. If the juvenile answers yes, further inquiry is mandated.

Nos. 10 through 13 were intentionally drafted so that the colloquy would be generally applicable to all scenarios. Accordingly, the colloquy warns of possible consequences of a finding of delinquency, even though some or all of these consequences may not be applicable to a given case.

No. 14 provides that if the trial judge does not accept an agreement, the juvenile has a right to a *de novo* proceeding before a different judge.

No. 17 inquires as to the juvenile's satisfaction with counsel. If the juvenile has not waived counsel and indicates dissatisfaction, it falls to the trial judge to determine what remedies are appropriate.

No. 18 inquires into the juvenile's opportunity to speak with a parent or guardian and attorney concerning the juvenile's decision to admit delinquency. Again, if the juvenile has not had this opportunity, it falls to the trial judge to determine what remedies are appropriate.

The court is not to accept a plea of *nolo contendere*. See *In re B.P.Y.*, 712 A.2d 769 (Pa. Super. Ct. 1998).

This admission colloquy is downloadable from the Court's webpage at <http://www.pacourts.us/T/Boards/Committees/JuvenileCourt/Procedural/>.

Official Note: Rule 407 adopted April 1, 2005, effective October 1, 2005.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 407 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

[Pa.B. Doc. No. 11-839. Filed for public inspection May 20, 2011, 9:00 a.m.]

Title 255—LOCAL COURT RULES

BRADFORD COUNTY

Local Civil Rules

Order

And Now, April 11, 2011, the court hereby adopts or amends the following local rules: 51; 216; 1301, 1308,

1915, 1919; and 1920, as amended, to be effective thirty (30) days after the publication in the *Pennsylvania Bulletin*.

It is further ordered that the District Court Administrator shall send one (1) certified copy of these rules to the Administrative Office of Pennsylvania Courts, two (2) certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, one (1) certified copy to the Civil Procedural Rules Committee, and one (1) copy to the *Bradford County Law Journal* for publication in the next issue of the *Bradford County Law Journal*.

With regard to Local Civil Rule 205.2(b), 206.4(c), 208.2(d), 208.3(a); 210; 1028(c); 1034(a); 1035.2(a) in compliance with Pa.R.C.P. 239.8(b), the court directs that the District Court Administrator shall transmit a copy of said rules to the Civil Procedural Rules Committee which shall then forward a copy to the Administrative Office of Pennsylvania Courts for publication on the Pennsylvania Judiciary's Web Application Portal. Said rules shall be effective upon publication on the Pennsylvania Judiciary's Web Application Portal.

It is further ordered that these local rules shall be kept continuously available in the Prothonotary's Office for public inspection and copying.

By the Court

JEFFREY A. SMITH,
President Judge

Local Rule 51.

These rules shall be known as the Bradford County Rules of Civil Procedure and may be cited as "Brad.Co.R.C.P."

Local Rule 216.

A. Motions for continuance must be made in writing or of record in open court, unless excused by the court for cause.

(1) Before filing a motion for continuance, the moving party shall make reasonable efforts to obtain the consent of any interested party. **If a response from opposing parties cannot be obtained, all efforts to obtain consent, including dates and times thereof, shall be set forth in said motion.**

(2) Continuances upon the consent of the parties shall not be effective unless and until ordered by the court.

B. Motions for continuances shall be presented no later than ten (10) calendar days before the date of the proceeding for which the continuance is requested. Thereafter, no motions for continuance will be granted unless:

(1) the opportunity therefore did not previously exist;

(2) the party making the motion was not aware and reasonably could not be aware of the grounds for the motion; or

(3) required in the interests of justice.

(4) **The court may consider sanctions for any motion presented less than ten (10) calendar days before the scheduled proceeding and without sufficient cause for such untimely presentation.**

C. Generally a request for a continuance based on proceedings scheduled in another trial court will be granted only if the other court's scheduling order was issued before the order scheduling the proceedings for which the continuance is requested. If the motion is based on conflict with a matter scheduled in another trial court,

the scheduling order or other written documentation from the other court shall be attached to the motion.

D. The motion for continuance shall be substantially in the following form:

**IN THE COURT OF COMMON
: PLEAS
VS. : OF BRADFORD COUNTY,
PENNSYLVANIA
: NO.**

MOTION FOR CONTINUANCE

NOW COMES _____, (by and through (his) (her)
(name of party)
(its) attorney, _____, and moves for a
(name of attorney)
continuance as follows:

1. The above-captioned matter is scheduled for

(nature of proceeding, i.e., argument, hearing, trial etc.)

on the ____ day of _____, 20____, at ____ m., before

(name of judge, master, etc.)

2. The moving party for said proceeding is

(name of party whose claim is to be heard)

3. The other parties in the case are:

_____ represented by: _____

_____ represented by: _____

_____ represented by: _____

4. The proceeding was scheduled by _____
(order or notice)

dated _____.
(date)

5. The proceeding (has) (has not) been previously continued (____ time(s)). (The moving party has obtained a continuance _____ time(s)).

6. A continuance is requested because _____

(If a continuance is requested because of a conflicting court matter, the scheduling notice or order must be attached.)

7. ☐ No interested party objects to the continuance.

☐ Only the following objected to the continuance request:

_____ because _____

_____ because _____

_____ because _____

☐ Consent to the continuance could not be obtained from

_____ because _____

_____ because _____

(If a response has not been obtained from any interested party, specify the date, time and manner of all efforts to obtain consent of the continuance.)

8. I hereby certify that if a continuance is granted, I will notify all witnesses who would be appearing at my request and will provide a copy of this motion to opposing counsel and unrepresented parties.

9. I specifically request a continuance

☐ of not less than _____

☐ of not more than _____ (or)

☐ to the next available date.

Respectfully submitted,

ADDRESS

PHONE NO.

ATTORNEY SUPREME COURT NO.

E. All written motions for continuance shall be [**accompanied**] **preceded** by a proposed order which shall be substantially in the following form:

**IN THE COURT OF COMMON
: PLEAS
VS. : OF BRADFORD COUNTY,
PENNSYLVANIA
: NO.**

ORDER

AND NOW, this ____ day of _____, 20____, upon consideration of the attached motion of _____
(moving party)

requesting a continuance:

☐ the motion is denied.

☐ the motion is granted and the _____
(matter being continued)

scheduled for _____ at _____ m.
(date) (time)

before _____ is hereby continued until
(name of judge, master, etc.)

_____ at _____ m.
(date) (time)

The moving party shall promptly notify all interested parties of this order.

BY THE COURT:

Local Rule 1301. Cases For Submission.

A. Compulsory arbitration as authorized by Section 7361 of the Judicial Code, 42 Pa.C.S.A. Section 101, *et seq.*, shall apply to all civil cases, except actions in equity, where the amount in controversy, exclusive of interest and costs, shall be [**thirty**] **thirty-five** thousand dollars [**(\$30,000.00)**] **(\$35,000.00)** or less, including appeals from a civil judgment of a district justice. Such actions

shall be submitted to and heard by a board of arbitration consisting of three attorneys.

B. The amount in controversy generally will be determined by the pleadings or by an agreement of the attorneys, however, the court, on its own motion or on the motion of any party, may determine, based upon affidavits, depositions, stipulations of counsel or after hearing or review of the record, that the amount actually in controversy does not exceed [**thirty**] **thirty-five** thousand dollars [**(\$30,000.00)**] **(\$35,000.00)** and may enter an order certifying the case to a board of arbitration. In the event that a case within the arbitration limits is consolidated with a case involving more than the arbitration limits after the former has been referred to a board of arbitrators, the order of consolidation shall remove the same from the jurisdiction of the board of arbitrators.

C. A civil action shall be referred to arbitration by order of court or when any party or its counsel (1) files a praecipe with the Prothonotary, certifying that the pleadings are closed and the matter is ready for arbitration and (2) pays the appropriate listing fee. A copy of the arbitration praecipe shall immediately be delivered to the Court Administrator and all other counsel.

D. Cases subject to compulsory arbitration will not be scheduled for a pre-trial conference, however, all cases will come under the caseload control of the court administrator.

Local Rule 1308. Arbitration Appeal.

An appeal from an award of arbitrators shall be filed in duplicate in the Office of the Prothonotary. A copy of the appeal shall be transmitted immediately by the Prothonotary to the Court Administrator. Immediately following the receipt of said copy, the Court Administrator shall schedule a pre-trial conference [**and shall send notice thereof to counsel of record and any unrepresented parties**] and prepare will the appropriate order scheduling same, which will directing pre-trial memoranda to be filed five (5) days prior to the pre-trial conference.

Local Rule 1915. Custody.

Local Rule 1915.15. Form of Complaint. Order.

(1) In addition to the information required by Pa.R.C.P. 1915.15, every complaint for custody, partial custody, or visitation shall contain one of the following averments:

A. "Plaintiff has been advised of the requirement to attend the seminar titled Education Program for Separated Parents."

or

B. "The parties have previously attended the Education Program for Separated Parents as evidenced by certificates of attendance (attached hereto) (contained in the official court file case number _____)."

(2) The order and notice shall also include the following:

"The parties are directed to pre-register with the Court Administrator and attend the Education Program for Separated Parents on one of the two dates listed below:

[**Tuesday**] **Saturday**, _____, [**6:00 p.m.**] **8:30 a.m.** to [**10:00**] **12:30 p.m.**

Saturday, _____, 8:30 a.m. to 12:30 p.m."

or

"The parties have previously attended the Education Program for Separated Parents as evidenced by certificates of attendance (attached hereto) (contained in the official court file case number _____)."

Local Rule 1919. Mandatory Seminar for Separated Families.

1. In all divorce and custody proceedings filed on or after December 1, 1994, and in such other cases as the court shall direct, where the interests of children under the age of 18 years are involved, within thirty (30) days of the date a custody, visitation or divorce claim is filed, the parties shall attend a four-hour seminar titled "Education Program for Separated Parents." If service of the complaint is not made within ten (10) days of filing, the plaintiff shall immediately notify the Court Administrator and shall thereafter provide the Court Administrator with proof of service within five (5) days of service.

[**NOTE: See the "Education Program for Separated Parents" description following this rule.**]

2. In all custody/visitation proceedings filed on or after December 1, 1994, each notice order and complaint shall include the additional information in accordance with Bradford County Civil Rule 1915.15

3. In all divorce proceedings filed on or after December 1, 1994, where the parties have a child or children under the age of eighteen years, every complaint shall contain the additional information required by Bradford County Civil Rule 1920.12. It shall also have attached thereto an order directing attendance at the seminar in the form set forth in Rule 1920.12(3).

4. The moving party shall serve the responding party with a copy of the court order directing attendance at the seminar at the time a divorce complaint is served. A program brochure/registration form shall also be provided by the moving party to the responding party at the time of service of the complaint.

5. The affidavit of service shall include a statement that the opposing party was advised of the requirement to attend the Education Program for Separated Parents and was served with the registration form.

6. Within seven (7) days after service, both parties are required to register for the program by mailing or personally presenting the pre-printed Education Program for Separated Parents registration form, along with a registration fee of \$35.00 (check or money order) to the Court Administrator, Bradford County Courthouse, 301 Main Street, Towanda, PA 18848. A waiver or reduction of the attendance fee can be granted only by the Court Administrator in consultation with the court.

7. Court approval is required for an extension of time to complete the seminar.

8. Parents living outside of Bradford County may contact the Court Administrator for possible alternative program attendance.

9. Upon completion of the seminar, each participant will receive a copy of a certificate verifying that they have attended the program. The original certificate will be placed in the official court file.

10. Failure to register for and complete the program may result in a finding of contempt and the imposition of sanctions.

[EDUCATION PROGRAM FOR SEPARATED PARENTS

PROGRAM GOALS

"Education Program for Separated Parents" will provide parents with information, support and direction that will facilitate a healthy adjustment for their children. Bitterness often ensnares children caught between divorcing parents. In an effort to reduce the emotional toll on children and to limit acrimony, attendance at this four-hour educational seminar is required by the court of all parties in all divorce, custody and visitation actions, and such other family court actions as the court may deem appropriate. This program will also be open to educators and others involved in caring for children. Administration of the program will be through the Court of Common Pleas of Bradford County.

PROGRAM CONTENT

The three-and-one-half to four-hour program provides parents with information about the developmental stages and needs of children, with emphasis on fostering the child's emotional health during periods of stress. The program is informative, and supportive, and will provide parents a list of community resources. Also included as topics are: typical reactions of families to separation, stress indicators in children, pitfalls to avoid, and skills to help children work through stress.

WHEN

The program is presented [eighteen] twelve times per year, [alternating between Tuesday evenings, from 6:00 p.m. until 10:00 p.m., and] Saturday mornings from 8:30 a.m. to 12:30 p.m. in accordance with a schedule distributed along with the annual court calendar.

WHERE

The program is presented at the Bradford County Courthouse, Towanda, Pennsylvania, in court room no. 2.

ATTENDANCE

Attendance at the program is required of all parties involved in divorce and custody/visitation cases where the interests of children under the age of 18 years are at issue. The court may also order attendance in certain instances in other family court cases.

A waiver of attendance will be provided for individuals who have attended an equivalent program, however, documentation of participation in a similar program or counseling experience must be provided to the court. Allowance of any waiver is at the discretion of the court.

FEEES

A fee of \$35.00 per party is required and is used to cover all costs of the program, including the presenter's fees, handouts, applications, and program administration. The Court Administrator, in consultation with the court, will determine whether any fee will be reduced or waived. **PRE-PAYMENT IS REQUIRED.** All fees must be in the form of check or money order.

PRESENTERS

The presenters have been approved by the court and will present the programs pursuant to an agreement with the court.

APPLICATION PROCESS

Upon initiation of a divorce/custody/visitation filing, both parties will receive a brochure about the program. The brochure will include a registration form describing registration and payment methods. This document will be served along with the pleading. Registration may be made by mail or in person at the Office of the Court Administrator and must be completed at least three days prior to the scheduled seminar. There are **NO WALK-IN ADMISSIONS.**

VERIFICATION

An alphabetical list of all parties participating in the program will be provided to the presenters prior to each session. This list will be used by the presenters, the facilitator, the security officer, and the court. Upon completion of the seminar, each parent will receive a copy of a certificate verifying that they have attended the course. The original certificate will be placed in the official court file.

SECURITY

A deputy sheriff or other security officer will be present throughout the seminar to ensure safety for all participants. The material that is presented is emotionally charged. Although every effort is made to maintain a light, open atmosphere in the presentation of the material, the orientation the participants bring to the seminar can produce very powerful reactions.

MONITORING AND EVALUATION

Each participant will complete a written evaluation of the seminar at its conclusion, indicating their individual assessment of the value of the program and any suggestions for future programs.]

Local Rule 1920. Actions of Divorce or Annulment.
Local Rule 1920.12. Complaint.

(1) In addition to the information required by Pa.R.C.P. 1920.12, every complaint in divorce shall contain one of the following averments:

A. Plaintiff avers that there are no children under the age of eighteen (18) years born of the marriage; or

B. Plaintiff avers that there are children under the age of eighteen (18) years born of the marriage, namely: (list names and dates of birth).

(2) If there are children under the age of eighteen (18) years born of the marriage, the complaint shall include one of the following averments:

A. "Plaintiff has been advised of the requirement to attend the Education Program for Separated Parents,"

or

B. "The parties have previously attended the Education Program for Separated Parents as evidenced by certificates of attendance (attached hereto) (contained in the official court file case number _____)."]

(3) In the event there are children under the age of eighteen (18) years of age born of the marriage, and there is no averment that the parties previously attended the Education Program for Separated Parents, the divorce

BY THE COURT:

J.

Local Rule 205.2(b).

1. Upon the filing of [**an action**] a **divorce or custody action** pursuant to the Pennsylvania Rules of Civil Procedure, [**including divorce and custody,**] a cover sheet in substantially the form specified in Subsection (b)(3) of this rule shall be filed immediately in the office of court administration.

2. In the event any such action is filed pro se, the prothonotary shall provide a copy of the cover sheet form to the filing party [and], shall [**notify court administration to assure compliance with this rule**] assist in completion of said form, and shall forward it to court administration, along with a copy of the pleading filed.

[IN THE COURT OF COMMON PLEAS OF BRADFORD COUNTY, PENNSYLVANIA

Date Filed: _____
Docket No. _____
Related Cases _____

Jury Trial Demanded ☐ **Yes** ☐ **No**
Arbitration Case ☐ **Yes** ☐ **No**

Note: A civil action is to be listed for Arbitration unless (1) the amount in controversy exceeds \$30,000 exclusive of interest and costs or (2) the case involves title to real property not be printed

CIVIL ACTION CASE TYPES

- ☐ **Civil Action (assumpsit, trespass, equity)**
- ☐ **Professional Liability**
- ☐ **Medical Professional Liability**
- ☐ **Ejectment**
- ☐ **Quiet Title**
- ☐ **Replevin**
- ☐ **Mandamus**
- ☐ **Mortgage Foreclosure**
- ☐ **Other**

☐ **District Justice**
☐ **Zoning Board**
☐ **Drivers License Suspension**
☐ **Registration License**
☐ **Board of Assessment**
☐ **Other _____**

FAMILY COURT CASE TYPES

- ☐ Child Custody/Visitation
 - ☐ Annulment
 - ☐ Divorce

Divorce Counts

 - ☐ Child Custody/Visitation
 - ☐ Equitable Distribution
 - ☐ Other

Plaintiff's DOB _____

Defendant's DOB _____

Filed by: _____

**Supreme Court ID
No. _____**

IMPORTANT: This form is not to be filed in the Prothonotary's Office, but should be taken directly to Court Administration for statistical and case management purposes immediately upon the filing of a new case or new petition/complaint (custody or divorce) in a family court case (It is not needed when filing petitions for special relief.]

**BRADFORD COUNTY
COURT OF COMMON PLEAS
DIVORCE/CUSTODY COVER SHEET**

This form must be filled out if you are filing a divorce or custody action in the Prothonotary's Office and must be given to Court Administration. PLEASE PRINT LEGIBLY.

DO NOT FILE IN THE PROTHONOTARY'S OFFICE

____ DOB : Date Filed: _____
 ____ DOB : _____
 ____ DOB : Docket No. _____
 Plaintiffs : _____
 vs. : _____
 ____ DOB : _____
 ____ DOB : _____
 ____ DOB : _____
 Defendants

PLEASE CHECK ONE:

DIVORCE FILING—NO CHILDREN	
DIVORCE FILING—CHILDREN UNDER 18/BUT NO CUSTODY COUNT	
DIVORCE FILING—CUSTODY COUNT	
CUSTODY COMPLAINT/MODIFICATION	

FILED BY:

IMPORTANT: This form is not to be filed in the Prothonotary's Office, but should be taken directly to Court Administration for statistical and case management purposes immediately upon the filing of a new case or new petition/complaint (custody or divorce) in a family court case (It is not needed when filing petitions for special relief or contempt).

Local Rule 206.4(c).

A. The procedure specified in Pa.R.C.P. 206.5 is adopted to govern petition practice in the Forty-second Judicial District. A petition shall be filed in the Prothonotary's Office. Upon filing, the Prothonotary's Office shall transmit a copy of the petition, along with the proposed rule to show cause order, to the Court Administrator for the scheduling of a rule returnable date.

B. Following the scheduling of the return date, the **copy of the** petition and **original and copy of the** order to show cause shall be submitted to the Prothonotary's Office for filing and docketing and for conforming a copy of the rule return order. A conformed copy of the order shall be transmitted by the Prothonotary to the petitioning party for service.

C. The petitioning party shall file an affidavit of service, noting the date, method of service and parties served.

D. If an answer is filed, the court, upon review, will determine whether a hearing or argument should be scheduled and will enter an order accordingly. Concurrently with filing, counsel or any unrepresented party shall serve a time-stamped copy of the answer or objection upon the assigned judge.

E. Any request for a stay of execution pending disposition of a petition to open a default judgment shall be included in the petition to open default judgment to be considered and processed in accordance with this rule. **A separate proposed order granting said stay shall be submitted.**

F. If the petition contains a request for immediate relief, a separate proposed order shall be submitted.

Local Rule 208.2(d).

Any motions presented under this rule shall contain a certification stating that said motion is uncontested, with a proposed order granting relief, or the motion shall certify that the matter is at issue and submit a proposed show cause order in substantially the form set forth in Rule 206.5.

Local Rule 208.3(a).

A. Except for motions made orally during a trial or hearing, all motions shall be written, shall contain a caption setting forth the name of the court, the number of the action, and the names of the parties, and shall have affixed upon the front page of the motion, the name, address and Supreme Court ID number of the filing attorney. All motions which are or may be contested shall include a proposed order scheduling argument. The proposed order shall include the name, address and Supreme Court ID number of the filing attorney. The proposed order shall not be physically attached to the motion.

B. All motions shall be filed in the Prothonotary's Office. Upon filing, the Prothonotary's Office shall transmit a copy of the motion, along with the proposed scheduling order, to the Court Administrator.

C. Following the scheduling of the motion, the **copy of the** motion and **original and copy of the** order to show cause shall be submitted to the Prothonotary's Office for filing and docketing and conforming of a copy of the scheduling order. A copy of said conformed order shall be transmitted by the Prothonotary to the moving party for service.

D. The moving party shall file an affidavit of service, noting the date, method of service, and parties served.

Local Rule 210.

Briefs shall contain the particular theories, statutes, rules of court, or cases upon which the litigant relies. The failure to specifically cite a statute, rule of court, or case shall be deemed to be a waiver of any claim that said authority is applicable.

(1) All motions for summary judgment shall be written, shall contain a caption setting forth the name of the

court, the number of the action, the names of the parties and have affixed upon each page of the motion, the name, address and Supreme Court ID number of the filing attorney. A motion for argument and a proposed scheduling order in substantially the following form shall be included:

**IN THE COURT OF COMMON PLEAS OF
BRADFORD COUNTY, PENNSYLVANIA**

VS. : NO.

MOTION FOR ARGUMENT

AND NOW, _____, I move the court to set the ___ day of _____, 20 __, at ___ m. in Courtroom No. ___ Towanda, Pennsylvania, as the time and place for argument on my motion for summary judgment.

I hereby state to the court that service will be made of a copy of the completed motion for argument upon all other parties or their attorneys of record in this proceeding; that if not already served, service will be made on the aforesaid of a copy of the motion which raises the issues in dispute; that all will be done in accordance with the applicable rules regarding service. I further state that my affidavit of service will be filed thereafter.

BY: _____

ORDER

AND NOW, _____, the above motion for time and place for argument is granted. The party filing who filed the motion for summary judgment, shall file a brief at least fifteen days prior to said argument. Immediately thereafter, a copy of said brief shall be served upon all counsel of record and all unrepresented parties.

The responding party shall file a brief at least five days prior to the argument and serve said brief upon all counsel of record and all unrepresented parties. **The failure to cite a particular statute, rule of court, or case shall be deemed to be a waiver of any claim that said statute, rule, or case stands as applicable authority.**

BY THE COURT:

(2) All motions for summary judgment shall be filed in the Prothonotary's Office. Upon receipt of the motion, the Prothonotary's Office shall transmit a copy of the motion, along with the motion for argument and the proposed scheduling order, to the Court Administrator.

(3) Following the scheduling of the motion, court administration shall return the copy of the motion for summary judgment, motion for argument and the scheduling order to the Prothonotary's Office for filing and docketing and for conforming a copy of the scheduling order. A conformed copy of the order shall be transmitted by the Prothonotary to the moving party for service. The moving party shall file an affidavit of service, noting the date, method of service, and parties served.

[Pa.B. Doc. No. 11-840. Filed for public inspection May 20, 2011, 9:00 a.m.]

FRANKLIN AND FULTON COUNTIES

**In the Matter of the Adoption and Amendment of
Local Rules of Civil Procedure for Actions In-
volving the Custody of Minor Children; Misc.
Doc. No. 1910 of 2011**

Order Pursuant to Pa.R.C.P. 239

And Now, this 3rd day of May, 2011, in light of the enactment of new statutory provisions governing actions in custody,

It Is Hereby Ordered That the following Rules of the Court of Common Pleas of the 39th Judicial District of Pennsylvania, Franklin and Fulton County Branches, Civil Division, are amended, rescinded or adopted as indicated this date, to be effective thirty (30) days following the date of their publication in the *Pennsylvania Bulletin*:

Local Rule of Civil Procedure 39-1915.3 shall be amended as provided in the following.

Local Rule of Civil Procedure 39-1915.7 shall be adopted in the following form.

It Is Further Ordered That the District Court Administrator shall:

1. Cause seven (7) certified copies of the Local Rules to be filed with the Administrative Office of Pennsylvania Courts.

2. Distribute two (2) certified copies of the Local Rules and a computer diskette containing the text of the Local Rules to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. The computer diskette shall be formatted and labeled as provided under the Note to Pa.R.C.P. 239(c)(3).

3. Cause one (1) certified copy of the Local Rules to be filed with the Domestic Relations Procedural Rules Committee.

4. Ensure a copy of the amended Local Rules, as well as all Local Civil Rules, shall be continuously available for public inspection and copying in the office of the Prothonotary of Franklin County and the Office of the Prothonotary of Fulton County. Upon request and payment of reasonable costs of reproduction and mailing, the Prothonotary shall furnish to any person a copy of any Local Rule.

5. Provide one (1) certified copy of the Local Rules to the Franklin County Law Library, and one (1) certified copy of the Local Rules to the Fulton County Law Library.

6. Arrange for the publication of the Local Rules on the Franklin County Bar Association Website at www.franklinbar.org.

By the Court

DOUGLAS W. HERMAN,
President Judge

Rule 39-1915.3. Commencement of Action. Complaint. Order.

(a) Commencement of Action

(1) *Filing and Service Generally.* All Complaints and/or Petitions to Modify relating to custody of minor children shall be presented to the Court Administrator for assignment, after filing, in accordance with these rules. Filing shall be accompanied by the payment of the designated filing and administrative fees. After the signing of the

temporary order, the Order shall be filed with the Office of the Prothonotary and the Complaint and Order served in accordance with the Pennsylvania Rules of Civil Procedure governing the service of Custody Complaints.

(2) *Contents of Complaint.* The Complaint shall specifically designate the relief sought by the party who filed the pleading and include specific terms of legal custody (**sole or shared**) or physical custody [**partial custody or visitation**] (**sole, primary, partial, shared, or supervised**) sought by the Moving Party as well as the factual basis therefore. In addition to those averments required by the Pennsylvania Rules of Civil Procedure governing actions relating to Custody, the Complaint shall also contain:

(i) **an averment as to whether or not the Moving Party or a member of the Moving Party's household has been convicted of or has pleaded guilty or no contest to any of the enumerated offenses found at 23 Pa.C.S.A. Section 5329(a) or of an offense in another jurisdiction substantially equivalent to the enumerated offenses and the date of the conviction or plea;**

(ii) an averment as to the Moving Party's knowledge of the Non-Moving Party's representation or non-representation by counsel, and if represented, an averment as to the Non-Moving Party's counsel's name;

(iii) an averment as to the form and time and manner of furnishing a copy of the Complaint to the Non-Moving Party or to legal counsel; and

(iv) if a Temporary Order is requested, the Proposed Temporary Order shall be stated as a paragraph of the Complaint.

(3) *Time for Furnishing a Copy of the Complaint and Proposed Order to the Non-Moving Party; Record Proof.* When a Non-Moving Party is represented, a true, attested copy of the Complaint and Proposed Order shall be furnished to the Non-Moving Party's counsel **of record, and to the non-moving party**, not less than forty-eight (48) hours prior to its anticipated presentation to the Court. In the case of an unrepresented Non-Moving Party, a true, attested copy of the Complaint and Proposed Order shall be furnished directly to the Non-Moving Party not later than forty-eight (48) hours prior to its anticipated presentation to the Court; or it shall be furnished to the Non-Moving Party by regular First Class U.S. mail not later than the end of business five (5) actual days preceding the date of its anticipated presentation. The Moving Party shall allege in his/her Complaint the form and manner of [**providing service**] **furnishing notice** to the Non-Moving Party and whether said [**service**] **notice** was [**made**] **given** directly to the named Non-Moving Party or to named legal counsel.

(4) *Scheduling Presentations; Pleadings Delivered to Court Administrator.* To facilitate the proper giving of notice of the presentation of Custody Complaints, the Court Administrator shall establish a regular time each week for the presentation of Custody Complaints and the entry of Orders of Court establishing temporary custody arrangements pending a full hearing. Counsel may obtain the specific time for presentation of Complaints from the Court Administrator's Office and shall deliver a copy of the filed Complaint to the Court Administrator a minimum of five (5) days in advance of the scheduled time of any planned presentations of Custody Complaints and Proposed Orders of Court.

(5) *Formal Presentation to the Court Not Necessary.* Certain Complaints and Petitions may be presented in

the same manner and at the same times as all other petitions and need not be presented in open Court at the time assigned for presentation of Custody Complaints and Petitions in these cases:

(i) When the Proposed Temporary Order and Directive for Conciliation makes no provision at all for an interim custody of the child or children.

(ii) When the Proposed Temporary Order and Directive for Conciliation simply maintains the status quo as evidenced by a prior Court Order, a copy of which must be attached to the Complaint or Petition.

(iii) When all parties have stipulated to the entry of a Temporary Order and Directive for Conciliation, without respect to whether any party is represented by counsel. However, if counsel represents any party, they shall be so identified by name, and counsel's signature shall be required on the Stipulation.

Explanatory Comment—2011

To satisfy the requirement under (a)(2)(i) of this Subsection, parties to a custody action or their attorney may obtain information about Pennsylvania criminal convictions only for parties in a custody proceeding at www.jendaveprogram.us, or by calling 1-866-536-3286.

(b) *Reference to Conciliator and Assignment to Judge*

(1) *Assignment to Conciliator.* The Court Administrator shall assign all custody actions to a Conciliator designated by the Court, who shall conduct a Conciliation Conference with both legal counsel and the parties. Further, the Court Administrator shall assign the Conciliator, date, time and place for the Conciliation Conference after the Order has been signed by the Court. The Order of Court and Directive for Conciliation shall be in a form similar to Sample Form "A." (See Sample Form "A").

(2) *Assignment to Judge.* The Court Administrator shall assign all custody actions to a Judge after the Order has been signed by the Court and at the same time that the Court Administrator assigns the Conciliator, date, time and place for the Conciliation Conference.

(3) *Conciliator.* The Conciliator shall be a member of the Bar of this Court who, along with any other members of his/her professional practice, shall not be engaged in the practice of law in the field of Domestic Relations. The Conciliator shall not be subject to the subpoena power of this Court to force testimony regarding information revealed during the Conciliation Conference.

(4) *Service.* [**Counsel for the**] **The Moving Party** shall serve a copy of the [**Complaint and**] **Order for Conciliation and accompanying Pleading** upon the Non-Moving Party in accordance with the Pennsylvania Rules of Civil Procedure. **The Moving party shall also serve a copy of the Order for Conciliation and accompanying Pleading upon the assigned Conciliator within ten (10) days of the date of the Order. Failure of the Moving party to comply with the service requirements upon the Conciliator may result in the cancellation of the Conciliation Conference unless actual notice has been provided by the Non-Moving Party.** The Moving Party [**shall serve a copy of the Complaint and Order for Conciliation upon the assigned Conciliator and**] shall certify service by filing a Certificate of Service with the Office of the Prothonotary. **Additionally, the Court Administrator shall notify the Conciliator of the list of cases scheduled for Conciliation one (1) week in advance.**

(5) *Administrative Fee.* The Moving Party shall deposit a nonrefundable administrative fee of [**\$200.00**] **\$250.00** with the Office of the Prothonotary upon the filing of the Complaint. The Conciliator shall be compensated at the rate of [**\$200.00**] **\$250.00** for each Custody Conciliation scheduled. Each conference is expected to last one (1) hour. In the event the Conciliation lasts more than one hour, the Conciliator may petition the Court for additional compensation at the rate of [**\$100.00**] **\$150.00** per hour. This additional fee shall be added to the cost of the action and shall be collected by the Prothonotary as directed by the Court. The fee may be changed from time to time upon direction from the Court without the necessity for amending these Rules. The Prothonotary shall post the administrative fee for such filings in its office. The fee shall be paid to the Conciliator by the Prothonotary [**upon receipt of the conciliator's billing statement**].

(i) In the event the Moving Party is unable to pay the administrative fee, such party may apply for an Order to Proceed In Forma Pauperis. If the Court authorizes In Forma Pauperis status, the administrative fee shall be paid by the County of Franklin.

(ii) In the event a party files a request for an additional Conciliation, the party shall pay an additional administrative fee for such Conciliation Conference which must be paid prior to the scheduling of an additional Conciliation Conference.

(iii) In the event a party requests a general continuance of a scheduled Conciliation Conference, if the rescheduled Conciliation Conference is scheduled more than six (6) months after the continued Conciliation Conference, the party shall pay an additional administrative fee of [**\$200.00**] **\$250.00** for such Conciliation Conference which must be paid prior to the scheduling of an additional Conciliation Conference.

(6) *Authority of Conciliator.* The Conciliator shall have the following authority and responsibility:

(i) To conciliate custody cases, which specifically includes meeting with the parties and children, if appropriate. If a party desires the children to be present at the Conciliation Conference, he/she shall make said request of the Conciliator no later than seven (7) days prior to the scheduled conference. The Conciliator shall determine the appropriateness of the request on a case-by-case factual basis after consultation with counsel for both parties or with a pro se party;

(ii) To address the need for home studies, as appropriate;

(iii) To address the issue of utilization of expert witnesses, as appropriate;

(iv) **To recommend to the Court, where appropriate, the need for evaluation of either party or members of their household pursuant to 23 Pa.C.S.A. § 5329; and**

(v) To recommend a resolution of the custody conflict which recommendation shall be included in the Summary Report and submitted to the Court for further action.

If the parties are not able to agree upon the need for home studies and/or the need for any other expert witnesses, either party may petition the Court pursuant to Pa.R.C.P. 1915.8 for the appointment of an expert and the payment of his or her fees.

(7) *Memorandum by Parties.* At least three (3) days prior to the scheduled Conciliation Conference, **each party shall furnish to** the Conciliator and counsel for the opposing party, or the pro se party individually, [**shall receive**] a Memorandum addressing the following:

(i) Factual background, including a brief history of the case;

(ii) **Disclosure of any criminal convictions of the offenses enumerated in 23 Pa.C.S.A. Section 5329 for the party or any member of that party's household, stating for each offense:**

a. **The date of the conviction;**

b. **The nature of the offense;**

c. **Any evaluation, counseling or other treatment undergone as a result; and**

d. **Safety concerns for the subject child related to the offense, if any.**

(iii) Names and ages of the children;

(iv) A proposed order for resolution of matters;

(v) Issues, both factual and legal, for resolution;

(vi) Whether a home study is requested; and

(vii) Whether the parties will agree to a particular psychologist/psychiatrist for evaluation or request psychological evaluations.

The parties are directed to supplement the Memorandum from time to time if new information becomes available prior to conciliation.

(8) *Summary by Conciliator.* Following the conclusion of each conference and within seven (7) business days thereof, the Conciliator shall file with the Prothonotary a Summary Report and Proposed Order of Court, if applicable, in the original plus two (2) copies. **The Conciliation Memorandums of the parties shall be attached to the original Summary Report for filing.**

(i) In the event the parties reach a comprehensive agreement at the Conciliation Conference, the Summary Report shall so state and the Proposed Order of Court shall reflect the terms of the agreement and shall be titled a Final Order of Court.

(ii) In the event the parties reach a partial agreement, or fail to reach any agreement to modify the existing order, said Summary Report shall include the following:

a. Custody status at the time of conciliation;

b. Summary of the parties' positions;

c. Identification of legal and factual issues before the Court; and

d. The Conciliator's recommendation and rationale therefore.

(iii) The Proposed Order of Court shall reflect the terms of any partial agreement reached and the need for home studies, psychological evaluations, or [**both**] **need for evaluation of either party or members of their household pursuant to 23 Pa.C.S.A. § 5329.** If the proposed order of court amends the temporary order entered at the custody presentation, the order shall also include a provision stating that the order will become a final appealable order of court one hundred eighty-one (181) days after the date of filing of the complaint/petition and shall include the exact date that the order will become final.

(iv) The Prothonotary shall serve copies of the Summary Report and any Order entered upon the parties, or their legal counsel if represented, in accordance with Pa.R.C.P. 236.

(c) *Entry of Court Order.* Upon review of the Conciliator's Summary, the Court may issue an Order addressing the appropriate issues. A copy of said Order of Court shall be furnished to legal counsel for the parties or in the event a party is unrepresented, to the party directly, according to the procedures outlined in local rule 39-1915.3(b)(8).

(d) *Scheduling of Pre-Trial Conferences and Hearings.* Upon the completion of home studies and psychological evaluations (if applicable), and at any time after the entry of the Order of Court approving the Conciliator's Summary, either party may present a Motion and Proposed Order for scheduling a Pre-Trial Conference with the Court. (See Sample Form "B").

(1) *Education Program for Divorcing Parents.* The Order of Court for Pre-Trial Conference shall contain language requiring the parties to the proceedings to attend and successfully complete the Education Program for Divorcing Parents.

(i) The party filing the Motion for Pre-Trial Conference shall provide the Prothonotary with a pre-addressed, envelope for each party to the custody action.

(ii) The Court Administrator's office shall send to each party the pamphlet regarding the Education Program for Divorcing Parents.

(2) *Scheduling.* [Every effort shall be made by the Court Administrator's office to] The assigned Judge shall schedule a Pre-Trial Conference within [thirty (30)] sixty (60) days of the submission of a Motion by either party requesting said conference [taking into consideration the availability of the Court]. Each party's presentation at the Pre-trial Conference shall not exceed a time limit of fifteen (15) minutes.

(3) *Pre-Trial Conference Memorandum.* At least three (3) days prior to the scheduled Pre-Trial Conference, a Pre-Trial [memorandum] Conference Memorandum containing the following matters shall be filed of record, and a copy provided to the assigned Judge:

(i) Statement of the case;

(ii) Issues to be resolved;

(iii) **Disclosure of criminal convictions and related information required by 39-1915.3(b)(7)(ii) if not previously disclosed in a Conciliation Memorandum;**

(iv) Names and addresses of all factual witnesses, and a brief summary concerning the anticipated testimony of each listed witness and a certification by counsel that all witnesses listed have been directly contacted by counsel or by pro se party to confirm the substance of the testimony proffered;

(v) Names and addresses of all expert witnesses;

(vi) Identification of exhibits for trial; and

(vii) Expected length of trial.

Failure to produce the information set forth in this Rule may be grounds for imposition of sanctions upon legal counsel or the party directly if appearing pro se.

(4) *Appearance by the Parties.* At the scheduled Pre-Trial Conference, both counsel shall be present and the parties shall be personally present.

(i) In the event that neither legal counsel nor a party appears, the Pre-Trial Conference shall be held in that party's absence upon proof of service of the Order of Court for Pre-Trial Conference in accordance with the Pennsylvania Rules of Civil Procedure.

(ii) Although the Court may not discuss the case with represented parties, they are directed to be present in the event issues arise where the parties' input may be beneficial.

(5) *Hearing Date.* In the event that an agreement is not reached at the Pre-Trial Conference, a hearing date shall be established by the Court [Administrator] at the conclusion of said conference.

SAMPLE FORM "A"

IN THE COURT OF COMMON PLEAS OF THE 39TH JUDICIAL DISTRICT PENNSYLVANIA— FRANKLIN/FULTON COUNTY BRANCH

Plaintiff	:	Civil Action—Law
	:	
	:	No. F.R.
vs.	:	
	:	
Defendant	:	In Custody
	:	Judge:

ORDER OF COURT AND DIRECTIVE FOR CONCILIATION

NOW, this ____ day of _____, 20 __, this Order will notify _____, Defendant, that you have been sued in Court to obtain custody of the child(ren): _____, date of birth _____.

It is ordered and directed that _____, Esquire, the Court's Child Custody Conciliation Officer, is hereby directed to conduct a Conciliation Conference on _____, 20 __ at ____ o'clock __.M at the Assigned Room, Third Floor, Franklin County Courthouse, Chambersburg, Pennsylvania. The anticipated length of the Conciliation Conference is one (1) hour. The parties along with their legal counsel shall appear in person at the designated time for the Conciliation Conference. A memorandum shall be furnished to the Conciliator at least three (3) days prior to the scheduled Conciliation Conference pursuant to 39th Judicial District Civil Rule No. 1915.3(b)(7).

Failure to provide said memorandum may result in the imposition of sanctions. At the Conciliation Conference, an effort will be made to see if the issues can be resolved by an agreement between the parties. If an agreement cannot be reached, the Conciliator will assist in defining and narrowing the issues to reduce the time required for hearing by the Court. At the conclusion of the conference, the Conciliator will prepare a Conference Summary Report for further action by the Court.

You have the right to be represented by an attorney who may attend the Conciliation Conference with you. If you have not secured an attorney by the date of the scheduled Conciliation Conference, you shall nonetheless personally appear at the time scheduled for the Conciliation Conference without an attorney.

The Plaintiff has deposited a sum of [\$200.00] \$250.00 with the Prothonotary for the cost of the Concili-

ation Conference and the Court reserves the right to further assign or divide these costs.

_____, Defendant, is notified that if you fail to appear as provided by this Order, an Order of Court for Custody, partial custody or visitation may be entered against you or the court may issue a warrant for your arrest.

Pending the hearing, with emphasis placed on the arrangements for the six (6) months preceding the filing of this Complaint and with particular attention paid to the role of primary caretaker, the Court hereby establishes the following temporary Order for custody pending a hearing:

[The appropriate language should be inserted at this point detailing the custody arrangements sought by the Plaintiff keeping in mind the emphasis to be placed upon the prior six (6) months and the role of primary caretaker. It is suggested one (1) inch of blank space be left for judge's comments or changes to the proposed Order.]

No party shall be permitted to relocate the residence of the child/ren to significantly impair the ability of another person to exercise custody UNLESS every individual who has custody rights to the child/ren consents to the proposed relocation OR the Court approves the proposed relocation. A person proposing to relocate MUST comply with the notice requirements pursuant to 23 Pa.C.S.A. Section 5337(c).

Defendant is hereby notified that if (s)he disputes the Plaintiff's averments regarding the current status of the custody arrangements and this Order is entered on the basis of those averments, (s)he has the right to request a prompt conference with the Court. If the matter of the temporary custody arrangements is not resolved at the Conference, the Court may in atypical factual situations and at its sole discretion schedule a brief hearing limited to the issues of determining temporary custody arrangements pending the scheduled Conciliation Conference.

The parties and their legal counsel, if applicable, are hereby directed to engage in meaningful negotiations to resolve this matter before the Conciliation Conference.

This Order shall become a final appealable order 181 days after the date of filing of the attached Complaint/Petition, that is, on ____ [fill in date 181 days after the date of filing of the complaint/petition]_____, unless prior to that date (1) a party files a praecipe, motion or request for a trial, or (2) there is filed a final intervening order

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Pennsylvania Bar Association
Lawyer Referral Service
1-800-692-7375 (PA ONLY) or 1-717-238-6715

AMERICANS WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of Franklin County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible

facilities and reasonable accommodations available to disabled individuals having business before the court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the court.

By the Court,

J.

SAMPLE FORM "B" IN THE COURT OF COMMON PLEAS OF THE 39TH JUDICIAL DISTRICT PENNSYLVANIA—FRANKLIN/ FULTON COUNTY BRANCH

Plaintiff	:	Civil Action—Law
	:	
	:	No. F.R.
vs.	:	
	:	
Defendant	:	In Custody
	:	Judge:

ORDER OF COURT

AND NOW, this _____ day of _____, 20____, upon consideration of the within Motion,

IT IS HEREBY ORDERED, that a Pre-Trial Conference in the above-captioned custody matter is scheduled for _____, 20____, at _____ o'clock ____ .m. in the Chambers of the Honorable _____, Franklin County Courthouse, Chambersburg, Pennsylvania.

A Pre-Trial Memorandum shall be **filed of record and a copy** furnished to the Court at least three (3) days prior to the scheduled Pre-Trial Conference pursuant to 39th Judicial District Civil Rule No. 1915.3(d). Failure to provide said Pre-Trial Memorandum may be grounds for imposition of sanctions.

Failure of a party or legal counsel to appear upon proper notice shall result in the holding of the conference in absentia and the entry of an Order of Court that may be to the detriment of the absent party.

IT IS FURTHER HEREBY ORDERED that all parties to this custody proceeding shall enroll in, attend and successfully complete the Education Program for Divorcing Parents, a four-hour educational seminar which has been established by the Court to provide guidance to the parties in helping children to adjust to custody changes. Failure of any party to comply with this provision of this Order may result in a finding of contempt with the imposition of sanctions including fine or imprisonment or both.

BY THE COURT,

J.

IN THE COURT OF COMMON PLEAS OF THE 39TH JUDICIAL DISTRICT PENNSYLVANIA—FRANKLIN/ FULTON COUNTY BRANCH

Plaintiff	:	Civil Action—Law
	:	
	:	No. F.R.
vs.	:	
	:	
Defendant	:	In Custody
	:	Judge:

MOTION FOR SCHEDULING OF A PRE-TRIAL CONFERENCE

AND NOW comes _____, Esquire, legal counsel for the above-captioned Plaintiff and moves the Court as follows:

1. A Conciliation Conference in the above-captioned matter was held on _____.

2. A Summary Report and proposed Order of Court was prepared by the Conciliator and filed of record on _____.

3. An Order of Court was signed on _____ containing further directives in this matter.

4. The undersigned legal counsel hereby certifies that all Court-ordered directives have been complied with and the matter is now ready for a hearing.

5. Notification of this Motion has been given to _____, Esquire, attorney for (Plaintiff/Defendant) who concurs with/opposes the request.

6. WHEREFORE, it is respectfully requested that an Order be entered by the Court establishing a date and a time for a Pre-Trial Conference.

Date: _____ By: _____
(Signature), Esquire
Counsel for (Plaintiff/Defendant)

I verify that the statements made in this Motion are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities.

Date: _____

(*Editors Note:* The following text is new and printed in regular type to enhance readability.)

Rule 39-1915.7. Consent Order.

(e) Required Submissions to the Court

(1) *Form.* Any agreement between the parties for legal or physical custody of a minor child shall be submitted the Court in the form of a motion entitled "Stipulation and Agreement," bearing the signature of each parent, and their counsel of record, if any, and requesting the entry of the agreed upon terms as an Order of Court. The motion shall be accompanied by a Proposed Order for entry by the Court.

(2) *Contents of Stipulation and Agreement Where No Complaint has been Filed.* If no Complaint for Custody or Petition for Modification has been filed, the motion requesting entry of the Proposed Order of Court shall contain:

(i) Averments required under 23 Pa.C.S.A. Section 5429(a), to enable the Court to determine whether jurisdictional requirements have been met, including:

a. The child's present address or whereabouts;

b. The child's residence address(es) for the five (5) years preceding the filing of the Stipulation and Agreement, and the names of the persons with whom the child resided during such period;

c. An averment whether any party has participated as a party or witness or in any other capacity in any other proceeding concerning the legal or physical custody of the child, and, if any such actions exist, stating the presiding court, case number, and nature of such proceeding; and

d. An averment whether any party knows the names and addresses of any person not a party to the proceeding

who has any form of physical custody of the child, or claims rights of legal or physical custody to the child, stating for any such person(s) their name(s) and address(es).

(ii) An averment whether or not either party or a member of their household has been convicted, pled guilty, or entered a plea of no contest, to any of the offenses enumerated at 23 Pa.C.S.A. Section 5329(a), or of an offense in another jurisdiction substantially equivalent to the enumerated offenses; and

(iii) An averment whether or not either party or a member of their household has engaged in past violent or abusive conduct, as described at 23 Pa.C.S.A. Section 5303(a)(3), and, if so, whether the parties believe there is any risk of harm to the child or abused party.

(3) *Contents of Proposed Order.* The agreed upon Proposed Order for custody shall contain:

(i) The terms of the agreement, as to both legal and physical custody of the subject child;

(ii) An averment pursuant to 23 Pa.C.S.A. Section 5323(c), giving notice of the parties' obligations under Section 5337, related to relocation, substantially equivalent to that set forth in Sample Form A to Rule 39-1915.3;

(iii) If either party has engaged in past violent or abusive conduct, and, if a risk of harm exists to the child or the abused party, conditions for protection of the child or abused party as required pursuant to 23 Pa.C.S.A. Section 5323(e).

[Pa.B. Doc. No. 11-841. Filed for public inspection May 20, 2011, 9:00 a.m.]

MONTGOMERY COUNTY

Amendment of Orphans' Court Local Rule 3.4A— Form. Additional Requirements. Cover Sheet.

Order

And Now, this 29th day of March, 2011, the Court hereby amends Montgomery County Orphans' Court Local Rule 3.4A—Form. Additional Requirements. Cover Sheet. This Amended Local Rule shall become effective on May 1, 2011, and shall be posted on the Montgomery County website, as an Orphans' Court Local Rule.

The Clerk of the Orphans' Court is directed to publish this Order once in the *Montgomery County Law Reporter* and in *The Legal Intelligencer*. In conformity with Pa.R.J.A. 103(c), the Clerk of the Orphans' Court shall forward ten (10) certified copies of this Order to the Administrative Office of Pennsylvania Courts for distribution in accordance with Pa.R.J.A. 103(c)(2). In addition, the Clerk of the Orphans' Court shall deliver one (1) copy to the Court Administrator of Montgomery County, one (1) copy to the Law Library of Montgomery County and one (1) copy to each Judge of the Orphans' Court Division of this Court.

By the Court

RICHARD J. HODGSON,
President Judge

Local Rule 3.4A. Form. Additional Requirements. **Cover Sheet.**

(1) *Typing. Endorsement.* Every pleading shall be endorsed with the name of counsel and where practicable typewritten and double-spaced, or printed.

(2) *Signature and Verification.* Every pleading shall be signed by the attorney and where facts are averred shall be verified by one or more of the parties. If this is impracticable, it may be signed and verified by someone familiar with the facts, in which case the reason for the failure of the parties to sign shall be set forth.

(3) *Decree.* The **proposed** decree shall have a caption and shall be attached to the face of the petition.

(4) *Cover Sheet.* Every pleading (other than a legal paper filed electronically) shall be accompanied by a completed Cover Sheet, in the form available from the Clerk of the Orphans' Court of Montgomery County and available on the Montgomery County website at the following link: <http://rwoc.montcopa.org/forms>. The Cover Sheet must be typed or printed and must include the address and signature of the attorney for the filing party. If the party is not represented by any attorney, the party must sign the Cover Sheet and include his or her address. Where an attorney or party has not previously entered his or her appearance with respect to the matter, the Cover Sheet for a pleading shall be deemed to be an entry of appearance by the attorney or party who signs the Cover Sheet.

[Pa.B. Doc. No. 11-842. Filed for public inspection May 20, 2011, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Administrative Suspension

Notice is hereby given that the following attorneys have been Administratively Suspended by Order of the Supreme Court of Pennsylvania dated April 4, 2011, under Rule 111(b) Pa.R.C.L.E., which requires that every active lawyer shall annually complete, during the compliance period for which he or she is assigned, the continuing legal education required by the Continuing Legal Education Board. The Order became effective May 4, 2011, for Compliance Group 2.

Notice with respect to attorneys having Pennsylvania registration addresses, which have been transferred to inactive status by said Order, was published in the appropriate county legal journal.

Andrews, Jr., Rawle
Washington, DC

Arroyo, Anthony Kelly
Washington, DC

Barbin, Bradley Davis
Columbus, OH

Boland, Mark
Washington, DC

Booth-Barbarin, Ann Victoria
Wilmington, DE

Bradman, Heyward A.
Miami, FL

Brennan, Frank P.
Cherry Hill, NJ

Buccerone, Carolyn
Hoboken, NJ

Cantrel, Jr., Francis John
Chevy Chase, MD

Carter, Wanda Lynette
Bowie, MD

Chau, Anna Christina
Oakland Gardens, NY

Clarke, Millicent
Freeport, NY

Cox, John Needham
Charlotte, NC

Curci, Brian Eric
Princeton, NJ

Eisdorfer, Allen
Colonia, NJ

Frick, Charles Alexander
Baltimore, MD

Girgis, Peter
Morristown, NJ

Gould, Rodney E.
Framingham, MA

Gray, David R.
Naples, FL

Hall, Maria Anne
Washington, DC

Hanton, Melvin
East Windsor, NJ

Henderson, Paul Thomas
Potomac, MD

Hutchison, Gregg Hugh
Princeton, NJ

Kishbaugh, John Eric
Voorhees, NJ

Kraai, Megan Messner
Towson, MD

Kronenwetter, Patrick J.
Chicago, IL

Manuel, Michael Thomas
Clayton, DE

McClenney, Joan M
Cherry Hill, NJ

McGowan, Siobhan
Fort Lee, NJ

Munnell, Charles Howard
Houston, TX

Murray, Neal Joseph
Cherry Hill, NJ

Nason, Deborah P.
Wilmington, DE

Orlando, Christine Susan
Haddonfield, NJ

Riley, III, Francis Xavier
Princeton, NJ

Russell, Arthur Daniel
Nutley, NJ

Schwendeman, Gregory John
Indianapolis, FL

Sims, Jacqueline Marie
Randallstown, MD

Smith, Lisa Lynne
APO, AE

Stewart, Lenore Dorian Elizabeth
Fairfax, VA

Stokwitz, Stephen S.
San Antonio, TX

Teller, Jonathan
New York, NY

Thompson, II, Frank Delano
New York, NY

Winitsky, Jeffrey Daniel
Marlton, NJ

Zolty, Ian Gordon
Mount Laurel, NJ

SUZANNE E. PRICE,
Attorney Registrar
The Disciplinary Board of the
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 11-843. Filed for public inspection May 20, 2011, 9:00 a.m.]

RULES AND REGULATIONS

Title 7—AGRICULTURE

DEPARTMENT OF AGRICULTURE

[7 PA. CODE CHS. 59 AND 59a]

Milk Sanitation

The Department of Agriculture (Department) rescinds Chapter 59 and adopts Chapter 59a (relating to milk sanitation) to read as set forth in Annex A.

Statutory Authority

(*Editor's Note:* This final-form rulemaking was proposed under the authority of the Food Act (31 P.S. §§ 20.1—20.18). The act of November 23, 2010 (P.L. 1039, No. 106) repealed the Food Act and enacted 57 Pa.C.S. Chapter 57, Subchapter B (relating to Food Safety Act). In the preamble and annex of this final-form rulemaking, references to the Food Act have been updated to the Food Safety Act.)

The act of July 2, 1935 (P.L. 589, No. 210) (31 P.S. §§ 645—660g), known as the Milk Sanitation Law (law), and 3 Pa.C.S. Chapter 57, Subchapter B (relating to Food Safety Act) (act) provide the legal authority for this final-form rulemaking.

Section 2 of the law prohibits (31 P.S. § 646) the sale of milk, milk products or manufactured dairy products within this Commonwealth unless the seller has a Department-issued permit. Section 19 of the law (31 P.S. § 660c) authorizes the Department to adopt regulations necessary for the proper enforcement of the act.

Section 5722 of the act (relating to definitions) includes milk within the definition of a “potentially hazardous food.” Section 5733 of the act (relating to rules and regulations) provides the Department broad authority to regulate as necessary for the proper enforcement of the act, but section 5736 of the act (relating to construction of subchapter) limits the circumstances under which the regulations can be inconsistent with Federal acts and regulations addressing the same subject matter.

Purpose of the Final-form Rulemaking

The protection of the health and safety of persons who consume milk, milk products and manufactured dairy products is the primary purpose of the final-form rulemaking. The secondary purpose is to provide the regulated community—persons who produce milk, milk products and manufactured dairy products within this Commonwealth for sale—with clearer standards that facilitate the production and sale of Pennsylvania-produced dairy products. The regulated community is quite diverse, with the size and sophistication of dairy production and processing operations varying dramatically. The final-form rulemaking provides the entire regulated community clearer and better guidance on the basic sanitation and safe production practices necessary to protect the health and safety of consumers and preserve the vitality of this Commonwealth's diverse dairy industry.

The final-form rulemaking updates the Department's milk sanitation regulations to reflect developments in food science and food technology since the regulations were last amended. Food safety science is an evolving body of knowledge. The final-form rulemaking helps bring the Commonwealth's standards into alignment with the current state-of-the-science.

In addition, the final-form rulemaking brings the Commonwealth's regulatory standards regarding pasteurized milk into closer alignment with those recommended in the current *Grade “A” Pasteurized Milk Ordinance* (Grade “A” PMO). The Grade “A” PMO is a model document issued and updated by the United States Department of Health and Human Services, Public Health Service, Food and Drug Administration. The agency recommends the Grade “A” PMO for adoption by all states “...in order to encourage greater uniformity and a higher level of excellence of milk sanitation practice in the United States” and to “facilitate the shipment and acceptance of milk and milk products of high sanitary quality in interstate and intrastate commerce.”

The final-form rulemaking also brings the Commonwealth's regulatory standards regarding milk for manufacturing (milk that is produced for processing and manufacturing into products for human consumption that is not subject to the same requirements as milk for pasteurization) into closer alignment with those recommended in the current *Milk for Manufacturing Purposes and its Production and Processing—Recommended Requirements* (USDA Recommended Requirements) document issued by the United States Department of Agriculture, Agricultural Marketing Service, Dairy Program.

The final-form rulemaking also consolidates and updates provisions regarding the production of raw milk for human consumption.

The final-form rulemaking helps the regulated community by providing greater clarity, facilitating interstate commerce in pasteurized milk and bringing the Commonwealth's milk sanitation standards into alignment with well-known and well-regarded Federal standards.

Summary

The final-form rulemaking serves the objectives previously set forth. In the extensive Comment and Response Document and Report, the Department details many of the changes and improvements accomplished by the final-form rulemaking. As part of its extensive comments, the Independent Regulatory Review Commission (IRRC) requested an explanation of the Department's rationale for the changes accomplished by the final-form rulemaking. The Department offers this preamble, including the statement of purpose, this summary section and the extensive Comment and Response Document and Report, in support of its position that the final-form rulemaking is in the public interest.

In general, the adoption of Grade “A” PMO standards and the references to specific applicable portions of the Grade “A” PMO throughout the final-form rulemaking are significant steps forward in that they bring the Commonwealth's milk sanitation standards into alignment with Nationally-used milk sanitation standards that embody the current state of dairy science. The former milk sanitation regulations (which is being supplanted by the final-form rulemaking) were premised on the 1978 version of the Grade “A” PMO.

Section 59a.2 (relating to definitions) establishes a common terminology, borrowing language from the former regulations in Chapter 59, the law, the act, the Grade “A” PMO and the USDA Recommended Requirements.

Section 59a.4 (relating to approved inspectors) clarifies the requirements that must be met for a person to be eligible to become an approved inspector (authorized to inspect dairy farms).

Section 59a.5 (relating to standards for Pennsylvania-approved dairy laboratories, official laboratories and other laboratories; reports of results) adds detailed language as to the standards and procedures by which a person may become a Pennsylvania-approved dairy laboratory director.

Section 59a.12 (relating to permits) provides substantially more detail on milk permit requirements than the former provision in § 59.12. The new provision details exceptions to permit requirements, provides an explanation of the process by which a permit can be obtained and addresses ownership, refusal, suspension and revocation in detail.

Section 59a.16 (relating to markings, sealing and documentation for vehicles containing milk and milk products) provides new regulatory guidance, using standards and language from the Grade “A” PMO.

Section 59a.17 (relating to inspection of dairy farms and milk plants) supplants the former provision in § 59.31 and provides clearer regulatory guidance.

Section 59a.18 (relating to sampling and examination) clearly identifies the types of laboratories that may conduct regulatory testing and sampling.

Sections 59a.19—59a.21 (relating to standards for Grade “A” milk for pasteurization, ultrapasteurization or aseptic processing; standards for Grade “A” pasteurized, ultrapasteurized and aseptically processed milk and milk products; and standards) incorporate specific Grade “A” PMO standards. These provisions accomplish a major regulatory change and go a long way toward bringing this Commonwealth’s dairy industry into compliance with these well-regarded National milk sanitation standards.

Section 59a.25 (relating to milk, milk products and manufactured dairy products from points outside this Commonwealth) supplants the former provision in § 59.304. The final-form regulation provides more specific guidance as to the standards that must be met by other jurisdictions from which milk is shipped into this Commonwealth and adds applicable references to the Grade “A” PMO.

Section 59a.27 (relating to personnel health) supplants vague regulatory language from the former provision in § 59.306 and provides a reference to the provisions of the Grade “A” PMO that address this subject matter.

In Subchapter C (relating to production and processing of milk for manufacturing purposes), the Department adopts the USDA Recommended Requirements and restates a number of former regulatory requirements.

Section 59a.109 (relating to bacterial estimate classification) supplants the former provision in § 59.504 and establishes a uniform 500,000 bacteria per milliliter standard as a bacterial count beyond which warnings and exclusion of milk from market may occur. This provision should promote good sanitation practices.

Section 59a.110 (relating to somatic cell count) effectively lowers the acceptable somatic cell count from a maximum of 1,000,000 per milliliter to a maximum of 750,000 per milliliter (with a higher permissible count for goat milk). Somatic cell count is a general indicator of sanitation practices and quality of milk. This change is significant and will help improve the overall quality and safety of the milk supply.

Section 59a.113 (relating to suspended milk for manufacturing) expands upon the list of circumstances under which a milk plant may not accept milk by adding

situations when milk has repeated excessively high somatic cell counts or contains added water to that list.

Subchapter D (relating to farms producing milk for manufacturing) restates rescinded regulatory requirements. Section 59a.201 (relating to farm inspection) adds clarification as to how an approved inspector is to determine a particular farm should receive a passing score on required inspections. Section 59a.207 (relating to water supply) provides a specific reference to the Grade “A” PMO requirements for water sources.

Subchapter E (relating to manufacturing plants) brings the regulations addressing milk for manufacturing into closer alignment with the USDA Recommended Requirements. This subchapter uses the basic format and language from the former provisions in §§ 59.701—59.792. The former regulations were promulgated in 1985 and much of the language was borrowed directly from the then-current USDA Recommended Requirements. For this reason, there are comparatively fewer changes or new requirements imposed on the regulatory community under Subchapter E.

Section 59a.302(f)(5) (relating to buildings) contains a more specific reference to the appropriate laboratory standards to be followed should a permitholder establish its own testing laboratory. These standards are as prescribed in the current *Evaluation of Milk Laboratories, Recommendations of the United States Public Health Service/Food and Drug Administration* and FDA 2400 Laboratory Series forms.

Section 59a.311(c) (relating to cleaning and sanitizing treatment) provides better guidance as to how milk transport tanks are to be cleaned and sanitized. This section also adopts a requirement from the USDA Recommended Requirements that a tank that has been cleaned and sanitized be cleaned and sanitized again if 96 hours or more elapse between uses of the tank.

Subchapter F (relating to raw milk for human consumption) seeks to present the major provisions that relate to the production of raw milk for human consumption in a single chapter. Under the former milk sanitation regulations, provisions regarding the production of raw milk for human consumption were scattered throughout the chapter. The Department believes this has been inconvenient for the regulated community and has been the cause of some confusion. In 2008, the Department issued a guidance document titled “Permits allowing the Sale of Raw milk for Human Consumption.” The guidance document was distributed to all raw milk permitholders with the objective of providing them a single document that referenced those statutory and regulatory provisions that most impacted their raw milk production businesses. This guidance document was used in drafting Subchapter F. Subchapter F also reflects the experience the Department has gained as it has assisted dairy producers through the raw milk permit application process, encountered problems and pathogenic bacteria in raw milk, and been involved in investigations of food borne human illness when raw milk has been implicated as a source.

Section 59a.402 (relating to raw milk; prohibitions) is significant in that it clearly states the extent of a raw milk permitholder’s authority. A raw milk permitholder may produce raw milk for human consumption and, under certain circumstances, aged cheese manufactured from raw milk.

Section 59a.404 (relating to requirements for the issuance of a raw milk permit) provides a detailed statement of the standards that shall be met to obtain a raw milk

permit and varies these requirements based upon whether the permit sought is a new raw milk permit or a successor permit to a raw milk permit that has expired.

Section 59a.406 (relating to animal health) requires that animals used in the production of raw milk be brucellosis-free, tuberculosis-free and in apparent good general health. Good animal health is essential to the production of safe raw milk for human consumption.

Section 59a.408 (relating to regular testing of raw milk for human consumption) provides a chart explaining the routine testing that shall be performed by raw milk permitholders. This includes a requirement that milk temperatures be monitored and that regular testing for bacterial count, coliform count, somatic cell count and the presence of drugs and specific pathogenic bacteria occur at regular intervals.

As a result of IRRC's October 7, 2010, order disapproving the final-form rulemaking, the Department made revisions to § 59a.410 (relating to raw milk packaging) as part of the report it subsequently filed with IRRC, the House Committee for Agriculture and Rural Affairs and the Senate Committee for Agriculture and Rural Affairs (House and Senate Committees). In summary, the section was revised to require mechanical filling and capping of raw milk containers only when packaging is being done for off-farm sales. It also requires that the mechanical filling and capping of raw milk containers that are being filled for off-farm sale occur "in a room separate from the milk room" and that the washing of returnable (reusable) containers occur in a room that is separate from any room that is devoted to bottling or the filling of other containers.

Section 59a.411 (relating to label content review by the Department) requires raw milk permitholders to submit their proposed label information for review by the Department, just as other milk permitholders are required to do. Given that milk is a potentially hazardous food and that raw milk, in particular, presents risks to certain consumers, the provision requires a label statement much as is required with respect to other potentially hazardous foods (such as raw shellfish, raw or undercooked meat, and similar foods).

Sections 59a.412–59a.416 provide the raw milk permitholder with a comprehensive summary of actions the Department or the Office of Attorney General might take with respect to the permit. This includes references to the Department's authority to conduct reasonable inspections, permit suspension or revocation actions, permit denials, suspensions or revocations, summary criminal prosecutions, injunctive relief and the seizure or detention of unsafe raw milk. As previously stated, one of the Department's objectives with respect to Subchapter F is to consolidated provisions regarding raw milk permits in a single subchapter.

Comments and Responses

A notice of proposed rulemaking was published at 39 Pa.B. 4677 (August 1, 2009) affording the public, the House and Senate Committees and IRRC the opportunity to offer comments. The comment period was extended an additional 30 days, through September 30, 2009, by notice published at 39 Pa.B. 5131 (August 29, 2009).

Comments were received from IRRC, the United States Department of Agriculture Agricultural Marketing Service Dairy Grading Branch, QC Laboratories, the Pennsylvania Independent Consumers and Farmers Association, the Pennsylvania Association for Sustainable Agriculture, the Farm-to-Consumer Legal Defense Fund (from Virginia),

the Pennsylvania State University Dairy Herd Health Educator for Southeastern Pennsylvania and over 100 additional commentators.

In addition, the Department reviewed and considered, and in its Comment and Response Document offers a response to, approximately 12 comment letters that were submitted after the close of the formal public comment period. The Department appreciates the time and thought that went into these various comments and treated each as it would a timely comment.

The Department has compiled an extensive Comment and Response Document to address each comment previously referenced. The document addresses approximately 210 different comments that were received with respect to the proposed rulemaking. A copy of this lengthy Comment and Response Document can be downloaded from the Department's website at www.agriculture.state.pa.us. The Comment and Response Document will be provided by the Department upon request through the contact person listed as follows.

IRRC Disapproval and Subsequent Approval

By order of October 7, 2010, IRRC disapproved this final-form regulation. See 40 Pa.B. 6367 (October 30, 2010). In response, on November 19, 2010, the Department filed a report with IRRC and the House and Senate Committees in accordance with section 7(c) of the Regulatory Review Act (71 P.S. § 745.7(c)). The referenced report provided the Department's response to IRRC's October 7, 2010 disapproval order and made several revisions to the final-form rulemaking in response to concerns raised by IRRC in that order. On December 16, 2010, IRRC issued an order approving the final-form rulemaking with the revisions described in the referenced report. See 41 Pa.B. 118 (January 1, 2011).

A copy of the report described in the previous paragraph can be downloaded from the Department's website at www.agriculture.state.pa.us. The report will be provided by the Department upon request through the contact person listed as follows.

Affected Individuals and Organizations

The final-form rulemaking will benefit nearly all residents in this Commonwealth since the majority of the 12.4 million citizens are consumers of milk and dairy products.

The 8,500-plus dairy producers and 872-plus milk permitholders in this Commonwealth will also benefit from the final-form rulemaking. In addition, approximately 132 raw milk producers and the persons who acquire and consume raw milk from these producers will benefit from the updated raw milk permit provisions that clarify the requirements for obtaining and maintaining a raw milk permit and attempt to protect the health of raw milk consumers. Also, approximately 40 Grade "A" milk processing plants, approximately 120 Grade "A" Bulk Tank Units (permitted farm groups), approximately 80 dairy manufacturing (non-Grade A) facilities, 46 interstate milk shippers program certified laboratory facilities, 57 drug residue testing facilities and 26 manufacturers of single service containers and closures will be impacted.

Fiscal Impact

Commonwealth. The final-form rulemaking is expected to impose approximately \$180,000 per year in additional costs upon the Department beginning with the 2010-2011 fiscal year.

Political subdivisions. The final-form rulemaking will not impose costs and will have not fiscal impact upon political subdivisions.

Private sector. Most of the impacted regulatory community is familiar with the Grade "A" PMO and the USDA Recommended Requirements and produces milk, milk products and manufactured dairy products to the standards prescribed by those documents. For these entities, the final-form rulemaking will have very little impact on day-to-day operations and will not impose any appreciable new costs. In addition, the Department plans to help train the regulated community to minimize confusion and costs regarding implementing the new regulatory standards. A small section of the regulated community, approximately 40 dairy operations that process milk for in-State sales only, may need to acquire drug residue testing equipment in the initial year after the final-form rulemaking takes effect or to incur costs regarding testing by third party laboratories. The Department estimates these dairy operations will, in the aggregate, incur total costs of approximately \$85,200 in the first year after the final-form rulemaking becomes effective and costs of approximately \$55,200 in subsequent years.

Persons who hold milk permits that authorize the sale of raw milk for human consumption will incur approximately \$740 in additional testing costs under the final-form rulemaking. These permitholders will incur approximately \$300 in additional somatic cell count test costs (12 additional tests, costing approximately \$25 each) and \$440 in pathogen testing costs (2 tests annually, costing between \$120 and \$220 each). There are approximately 132 of these permitholders. The total annual cost increase for these permitholders will be approximately \$97,680 each year.

General public. The final-form rulemaking is not expected to impose any appreciable new costs or have any appreciable financial impact on the general public. The final-form rulemaking will enhance public safety. It is possible that some portion of the additional testing costs imposed on the private sector will be passed-along to the consumer. The Department expects any cost increases would be minimal.

Paperwork Requirements

The final-form rulemaking will not affect the paperwork generated by the Department or the regulated communities.

Effective Date

The final-form rulemaking will become effective upon publication in the *Pennsylvania Bulletin*.

Contact Person

Individuals who need information about the final-form rulemaking should contact the Department of Agriculture, Bureau of Food Safety, Division of Milk Sanitation, 2301 North Cameron Street, Harrisburg, PA 17110-9408, Attention: Paul Hoge.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on July 21, 2009, the Department submitted a copy of the notice of proposed rulemaking, published at 39 Pa.B. 4677, to IRRC and the Chairpersons of the House and Senate Committees for review and comment.

IRRC disapproved the final-form rulemaking by order of October 7, 2010. Under section 7(c) of the Regulatory Review Act, on November 19, 2010, the Department filed a report with IRRC and the Chairpersons of the House and Senate Committees setting forth the Department's responses and recommendations with respect to the final-form rulemaking.

Under section 5(c) of the Regulatory Review Act, IRRC and the House and Senate Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 7(c.1) of the Regulatory Review Act, IRRC approved the Department's report by order of December 16, 2010. Under section 7(d) of the Regulatory Review Act, the final-form rulemaking, as revised in the Department's report, was deemed approved by the House and Senate Standing Committees on Agriculture and Rural Affairs as of March 2, 2011.

Under section 7(d) of the Regulatory Review Act, on December 6, 2010, the final-form rulemaking, as revised in the Department's report, was deemed approved by the House and Senate Committees. Under section 7(c.1) of the Regulatory Review Act, IRRC met on December 16, 2010, and approved the final-form rulemaking, as revised in the Department's report.

Findings

The Department finds that:

(1) Public notice of intention to adopt this final-form regulation has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law; and all comments that were received were considered.

(3) The amendments that were made to this final-form rulemaking in response to comments received do not enlarge the purpose of the proposed rulemaking published at 39 Pa.B. 4677.

(4) The adoption of the final-form rulemaking in the manner provided in this order is necessary and appropriate for the administration of the law and the act.

Order

The Department, acting under the law and the act, orders the following:

(1) The regulations of the Department, 7 Pa. Code, are amended by deleting §§ 59.1, 59.2, 59.11, 59.13—59.17, 59.21, 59.22, 59.31—59.34, 59.51, 59.52, 59.101—59.121, 59.201—59.216, 59.216a—59.216d, 59.217—59.222, 59.251—59.253, 59.301—59.310, 59.401—59.406, 59.501—59.510, 59.601—59.607, 59.701—59.716, 59.721—59.752, 59.761—59.763, 59.771—59.773, 59.781, 59.782, 59.791 and 59.792 and by adding §§ 59a.1—59a.5, 59a.11—59a.28, 59a.101—59a.117, 59a.201—59a.208, 59a.301—59a.316, 59a.321—59a.353, 59a.361—59a.363, 59a.371—59a.373, 59a.381, 59a.382, 59a.391, 59a.392, 59a.401—59a.416 and 59a.501 to read as set forth in Annex A.

(2) The Secretary of Agriculture shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as required by law.

(3) The Secretary of Agriculture shall certify and deposit this order and Annex A with the Legislative Reference Bureau as required by law.

(4) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

GEORGE D. GREIG,
Secretary

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 41 Pa.B. 118 (January 1, 2011).)

Fiscal Note: Fiscal Note 2-160 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 7. AGRICULTURE

PART III. BUREAU OF FOOD SAFETY AND LABORATORY SERVICES

Subpart B. LIQUID FOODS

CHAPTER 59. (Reserved)

Sec.	
59.1.	(Reserved).
59.2.	(Reserved).
59.11.	(Reserved).
59.13—59.17.	(Reserved).
59.21.	(Reserved).
59.22.	(Reserved).
59.31—59.34.	(Reserved).
59.51.	(Reserved).
59.52.	(Reserved).
59.101—59.121.	(Reserved).
59.201—59.216.	(Reserved).
59.216a—59.216d.	(Reserved).
59.217—59.222.	(Reserved).
59.251—59.253.	(Reserved).
59.301—59.310.	(Reserved).
59.401—59.406.	(Reserved).
59.501—59.510.	(Reserved).
59.601—59.607.	(Reserved).
59.701—59.716.	(Reserved).
59.721—59.752.	(Reserved).
59.761—59.763.	(Reserved).
59.771—59.773.	(Reserved).
59.781.	(Reserved).
59.782.	(Reserved).
59.791.	(Reserved).
59.792.	(Reserved).

CHAPTER 59a. MILK SANITATION

Subchap.

A.	PRELIMINARY PROVISIONS
B.	PERMIT REQUIREMENTS
C.	PRODUCTION AND PROCESSING OF MILK FOR MANUFACTURING PURPOSES
D.	FARMS PRODUCING MILK FOR MANUFACTURING
E.	MANUFACTURING PLANTS
F.	RAW MILK FOR HUMAN CONSUMPTION
G.	MISCELLANEOUS PROVISIONS

Subchapter A. PRELIMINARY PROVISIONS

Sec.	Scope.
59a.1.	Definitions.
59a.2.	Contacting the Department.
59a.3.	Approved inspectors.
59a.4.	Standards for Pennsylvania-approved dairy laboratories, official laboratories and other laboratories; reports of results.

§ 59a.1. Scope.

This chapter establishes the minimum requirements for the following:

(1) The production, transportation, processing, handling, sampling, examination, labeling and sale of milk, raw milk, milk products and manufactured dairy products.

(2) The inspection of dairy farms, milk plants, receiving stations, transfer stations, milk tank truck cleaning facilities, milk tank trucks and bulk milk haulers/samplers.

(3) The issuing, suspension and revocation of permits to milk plants, receiving stations, transfer stations, milk tank truck cleaning facilities and distributors.

§ 59a.2. Definitions.

(a) *Terms.* The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

3-A Sanitary Standards—The latest standards for dairy equipment promulgated jointly by the Sanitary Standards Subcommittee of the Dairy Industry Committee, the Committee on Sanitary Procedure of the International Association for Food Protection and the Milk Safety Branch, Center for Food Safety and Applied Nutrition, Food and Drug Administration, Public Health Service, Department of Health and Human Services.

Act—The act of July 2, 1935 (P.L. 589, No. 210) (31 P.S. §§ 645-660g), known as the Milk Sanitation Law.

Adulterated—As defined in section 5728 of the Food Safety Act (relating to adulteration of food).

Approved inspector—A person who has been licensed by the Department in accordance with § 59a.4 (relating to approved inspectors) to perform dairy farm inspections required under this chapter in a capable and efficient manner.

Approved sampler—A person certified by the Department to obtain samples of milk or milk products for analysis by a Pennsylvania-approved dairy laboratory.

BTU—Bulk tank unit—A specified group of dairy farms from which milk for pasteurization or for manufacturing purposes is collected by a milk tank truck.

CIP—Cleaned in place—The removal of soil from product contact surfaces in their process position by circulating, spraying or flowing chemical solutions and water rinses onto and over the surfaces to be cleaned, provided that:

(i) Components of the equipment which are not designed to be cleaned-in-place are removed from the equipment to be cleaned out-of-place or manually cleaned.

(ii) Product contact surfaces can either be readily inspected by the Department or, with respect to product contact surfaces that cannot be readily inspected (such as permanently installed pipelines and silo tanks), their cleanability by cleaned-in-place cleaning has been accepted by the Department.

Certified industry inspector—An approved inspector who has been licensed by the Department in accordance with § 59a.4(h) to inspect dairy farms on which milk is produced for an interstate milk shipper. A certified industry inspector is the equivalent of a "designated inspector," for purposes of conducting certified industry inspections described in the Grade "A" PMO.

Classification of farm sanitation compliance—

(i) *Passing.* A general compliance with sanitary standards established for the production of milk.

(ii) *Reinspect.* A significant noncompliance with sanitary standards established for the production of milk requiring remedial action and a subsequent review to determine conformity.

(iii) *Suspend.* Major noncompliance with sanitary standards or evidence of conditions that would render the milk unsafe for human consumption, or if on the reinspection it is found that sufficient progress has not been made on the previously recommended corrections.

Commingled milk—

(i) Milk from two or more producers.

(ii) In a milk plant, a representative sample of all daily sources of milk prior to pasteurization.

Dairy farm—A place or premise where one or more cows or other lactating hooved mammals are kept, and a part or all the milk from which is sold or delivered to any person.

Department—The Department of Agriculture of the Commonwealth.

Easily cleanable—As defined in § 46.3 (relating to definitions).

FDA—The Food and Drug Administration of the United States Department of Health and Human Services.

Food Safety Act—3 Pa.C.S. Chapter 57, Subchapter B.

Grade “A” PMO—The most current revision of the Grade “A” Pasteurized Milk Ordinance and its appendices, as published by the FDA. The Department maintains a link to an electronic copy of this document on its web site at www.agriculture.state.pa.us.

Growth inhibitor—An antimicrobial adulterant including, but not limited to, antibiotics.

HACCP or Hazard Analysis Critical Control Point—

(i) The systematic approach to the identification, evaluation and control of significant milk or milk product safety hazards, as described in the Grade “A” PMO.

(ii) The Grade “A” PMO provisions further defining or describing HACCP include Section 1 and Appendix K, regarding definitions and HACCP Program.

HTST—High temperature short term.

Herd—A group of animals or a single animal maintained for purposes related to this chapter.

Manufactured dairy products—Butter, cheese (natural or processed), dry whole milk, nonfat dry milk, dry buttermilk, dry whey, evaporated milk (whole or skim), condensed whole and condensed skim (plain or sweetened), and other products for human consumption, as may be designated by the Secretary including:

(i) Instant nonfat dry milk and other dry milk products.

(ii) Pasteurized process cheese and related products.

(iii) Sterilized milk products.

(iv) Butter-related products.

(v) Other products that must be produced at plants in accordance with supplemental requirements established under Subchapter E (relating to manufacturing plants).

Milk—Milk, skimmed milk, cream, sour milk, sour cream, buttermilk and all other fluid derivatives of milk. The term includes milk from any hooved mammal species.

Milk for manufacturing purposes—Milk produced for processing and manufacturing into products for human consumption but not subject to requirements of milk for pasteurization.

Milk for pasteurization—Milk which conforms with relevant provisions of this chapter and is used in the preparation of pasteurized milk and milk products.

Milk plant or plant—A place or premise or establishment where milk is collected, separated, processed,

stored, bottled, pasteurized, or prepared in any manner for sale as milk, milk products or manufactured dairy products.

Milk products—Ice cream, ice cream mix, custard ice cream, french ice cream, frozen custard, and other similar frozen products, and all dairy products used in the manufacture thereof. The term includes those foods that are milk products under the Grade “A” PMO.

Misbranded—As defined in section 5729 of the Food Safety Act (relating to misbranding of food).

Municipality—Any city, borough, town or township in this Commonwealth.

NCIMS—The National Conference of Interstate Milk Shippers.

Official laboratory—A biological, chemical or physical laboratory which is under the direct supervision of the Department. The term includes a dairy laboratory controlled and operated by the Department, a dairy laboratory that performs dairy testing and analysis under contract with the Department and a dairy laboratory at which Department personnel perform dairy testing and analysis.

Pennsylvania-approved dairy laboratory—

(i) A commercial or regulatory laboratory approved and certified by the Department within the preceding 2 years to do official analyses of milk and milk products.

(ii) A milk industry laboratory approved and certified by the Department within the preceding 2 years for the examination of producer samples of milk for pasteurization, commingled milk for pasteurization or of raw milk for human consumption for the detection of drug residues, bacterial limits and somatic cell count.

Pennsylvania-approved dairy laboratory director—An individual who has satisfactorily demonstrated competency and the necessary experience to direct the analytical and administrative activities of a Pennsylvania-approved dairy laboratory in accordance with the methods and procedures adopted by the Department in § 59a.5 (relating to standards for Pennsylvania-approved dairy laboratories, official laboratories and other laboratories; reports of results).

Permitholder—A person holding a permit issued by the Department to sell milk, milk products or manufactured dairy products.

Person—Includes singular and plural, masculine and feminine, and any individual, firm, copartnership, institution, association or corporation thereof.

Producer—The persons who exercise control over the production of the milk delivered to a plant, and who receive payment for this product. A new producer is one who is initiating the shipment of milk from a farm.

Raw milk—Milk that is not pasteurized and may be sold to consumers without further treatment or processing, provided that it conforms to Subchapter F (relating to raw milk for human consumption).

Secretary—The Secretary of the Department, or an authorized representative.

Standard Methods for the Examination of Dairy Products—The current edition of the *Standard Methods for the Examination of Dairy Products*, a publication of the American Public Health Association, 1015 Fifteenth Street, NW, Washington, D.C. 20005.

"To sell," "for sale" or "sold" and similar terms—The selling, exchanging, delivering, or having in possession, care, control, or custody with intent to sell, exchange, or deliver, or to offer or to expose for sale.

UHT—Ultra-high temperature.

UHTST—Ultra-high temperature short time.

USDA Recommended Requirements—The most current revision of the *Milk for Manufacturing Purposes and its Production and Processing—Recommended Requirements*, as published by the United States Department of Agriculture, Agricultural Marketing Service, Dairy Programs.

Weigher/sampler—A bulk milk pick-up driver or a milk plant person certified by the Department or the Pennsylvania Milk Marketing Board to take official samples of producers' milk for chemical, antibiotic, somatic cell and bacteriological analyses.

(b) *Additional terms used in this chapter and defined in the Grade "A" PMO.* Any word or term used in this chapter and not otherwise defined in subsection (a) has the meaning ascribed to it in the Grade "A" PMO.

(c) *Additional terms used in the Grade "A" PMO.* Any applicable word or term used in the Grade "A" PMO has the meaning ascribed to it in the Grade "A" PMO, with the exception of the term "regulatory agency," which means the Department.

§ 59a.3. Contacting the Department.

For purposes of this chapter, the Department may be contacted as follows:

- (1) By mail, at the following address:

Pennsylvania Department of Agriculture
Bureau of Food Safety and Laboratory Services
ATTN: Division of Milk Sanitation
2301 North Cameron Street
Harrisburg, PA 17110-9408

- (2) By telephone, as follows: (717) 787-4315

- (3) Through the following web site: www.agriculture.state.pa.us.

§ 59a.4. Approved inspectors.

(a) *Application.* A person may apply to the Department to be licensed as an approved inspector for purposes of the act and this chapter. The Department will provide application forms, or the renewal forms described in subsection (d), upon request to the address or web site identified in § 59a.3 (relating to contacting the Department). An application fee of \$50 (or as otherwise prescribed by statute) must accompany the application.

(b) *Criteria for approval.* An applicant shall meet the following criteria to be eligible for licensure as an approved inspector:

- (1) The applicant shall be 21 years of age or older.
- (2) The applicant may not have been convicted of a felony criminal offense within the 10 years preceding the date of application.
- (3) The applicant shall have at least 2 years of academic training or experience in the area of milk production and milk sanitation. The Department may verify that an applicant has adequate experience by having Department personnel conduct one or more joint dairy farm inspections with the applicant.
- (4) The applicant shall complete a Department-administered approved inspector examination and achieve a final score of at least 80%.

(c) *License.* The Department will issue a license to a person who follows the application process described in this section and meets the criteria for approval in subsection (b).

(d) *Duration of license; renewal.* A license will expire each year, as of January 1. Applications for renewal of a license must be accompanied by a fee of \$20 (or as otherwise prescribed by statute), and confirmation that the applicant for renewal has attended a Department-approved seminar as described in subsection (e) within 12 months preceding the date of the application, and shall be returned to the Department by December 31st of each year.

(e) *Education requirement.* The Department will convene an approved inspector educational seminar on at least two separate dates each calendar year, and provide current approved inspectors written notice of the dates, times and locations of these seminars. As described in subsections (b) and (d), attendance at an educational seminar is a requisite to the Department issuing or renewing a license.

(f) *Status of approved inspectors.* An approved inspector is not an employee, agent or authorized representative of the Department, and may not represent himself to be any of these.

(g) *Refusal, revocation or suspension of certificate.* The Department may, upon written notice and opportunity for a hearing, refuse, revoke or suspend a license for cause.

(h) *Certified industry inspectors.* The Department may designate on the license of an approved inspector that the approved inspector is a certified industry inspector who may, in addition to conducting the inspection activities of an approved inspector, inspect dairy farms on which milk is produced for an interstate milk shipper under the NCIMS Interstate Milk Shippers Program and the Grade "A" PMO.

§ 59a.5. Standards for Pennsylvania-approved dairy laboratories, official laboratories and other laboratories; reports of results.

(a) *General standards.* A Pennsylvania-approved dairy laboratory, an official laboratory or another laboratory that conducts sampling or laboratory examinations for purposes of this chapter shall conform that sampling or testing to the applicable standards and procedures set forth in the *Standard Methods for the Examination of Dairy Products* or the current edition of the *Official Methods of Analysis of the Association of Official Analytical Chemists*. Procedures, including laboratory examination procedures and the certification of sample collectors, shall be evaluated in accordance with the current *Evaluation of Milk Laboratories, Recommendations of the United States Public Health Service/Food and Drug Administration* and the Grade "A" PMO and operate in accordance with current FDA 2400 Laboratory Series forms.

(b) *Reports of results.* If a Pennsylvania-approved dairy laboratory issues a report of the results of laboratory examinations for purposes of this chapter, the report shall be signed by a Pennsylvania-approved dairy laboratory director or a person designated by a laboratory director to sign these reports. If an official laboratory issues a report of the results of laboratory examinations for purposes of this chapter, the report shall be signed by the laboratory director, a person designated by the laboratory director, the person who performed the tests described in the report or the Director of the Department's Bureau of Food Safety and Laboratory Services.

(c) *Pennsylvania-approved dairy laboratory director.*

(1) A person may apply to the Department to be certified as a Pennsylvania-approved dairy laboratory director. This approval may be sought for one or more of the following categories of dairy testing procedures:

- (i) Sampling.
- (ii) Cultural procedures.
- (iii) Coliform count (media or Petrifilm™).
- (iv) Standard plate count (media or Petrifilm™ Count).
- (v) Drug Residue Testing/Appendix N of the Grade "A" PMO.

(vi) Direct microscopic somatic cell count or electronic somatic cell count, or both.

(vii) Phosphatase: Electronic Fluorophos or Charm methodologies, or both.

(2) The Department will consider the written application of a dairy laboratory director to be certified as a Pennsylvania-approved dairy laboratory director. The application may be made by letter or on a form the Department will provide upon request. A prospective applicant shall meet two or more of the following requirements to be eligible to apply:

(i) The applicant shall have at least 1 year of experience or the equivalent of that experience conducting analysis at a dairy laboratory.

(ii) The performance of the applicant with respect to the category for which certification is sought has been evaluated onsite by Department personnel and been satisfactory.

(iii) The performance of the applicant in a Department-conducted milk split sample proficiency program with respect to the category for which certification is sought has been satisfactory.

(iv) The applicant has attended and completed a training session offered by the Department or the FDA addressing the category for which certification is sought.

(3) The Department will provisionally certify a dairy laboratory director to be a Pennsylvania-approved dairy laboratory director with respect to one or more specific categories of testing procedures if the applicant meets the qualification standards in paragraph (2), submits an application and does the following:

(i) Completes a Department-administered written examination and attains a score of at least 80%. The examination must have the following parts:

(A) A general section addressing sampling and culturing procedures.

(B) A section addressing the specific categories of dairy testing procedures with respect to which the applicant seeks certification.

(ii) Passes an onsite performance and facilities evaluation by a laboratory evaluation officer from the Department.

(4) After the provisional certification in paragraph (3), the Department will certify a dairy laboratory director to be a Pennsylvania-approved dairy laboratory director with respect to one or more specific categories of testing procedures if the provisionally-certified person submits a split sample to the Department for analysis, retains and analyzes the other portion of the split sample, and the results of analysis are consistent between the Department and the provisionally-certified person.

Subchapter B. PERMIT REQUIREMENTS

tSec.

59a.11. Adoption of Grade "A" PMO.

59a.12. Permits.

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59a.19. Standards for Grade "A" milk for pasteurization, ultrapasteurization or aseptic processing.

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59a.21. Standards.

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59a.24. Transferring; delivery containers; cooling.

59a.25. Milk, milk products and manufactured dairy products from points outside this Commonwealth.

59a.26. Plans for construction and reconstruction.

59a.27. Personnel health.

59a.28. Procedure when infection or high risk of infection is discovered.

§ 59a.11. Adoption of Grade "A" PMO.

(a) *General adoption of the Grade "A" PMO.* The provisions, terms, procedures, appendices and standards of the Grade "A" PMO are adopted as the regulatory standards of the Department to the extent they do not conflict with one or more of the following:

- (1) The act.
- (2) The Food Safety Act.
- (3) A provision of this chapter.

(b) *Specific references to applicable provisions of the Grade "A" PMO.* The provisions of this chapter contain, as guidance, references to the applicable provisions of the Grade "A" PMO.

§ 59a.12. Permits.

(a) *Permit required.* A person may not sell milk, milk products or manufactured dairy products within this Commonwealth without having a current, valid permit from the Secretary, unless the person is exempt from this permit requirement under subsection (b). A separate permit shall be obtained for each milk plant, milk distributor, receiving station, transfer station, bulk tank unit and milk tank truck cleaning facility, and by every producer of raw milk in accordance with Subchapter F (relating to raw milk for human consumption). Additional permits or licenses may be required for milk haulers and weighers/samplers under regulations established and enforced by the Milk Marketing Board under Part VI (relating to Milk Marketing Board).

(b) *Exceptions.* The permit requirement of subsection (a) does not apply to the following:

- (1) A person selling or delivering milk directly from a dairy farm to a milk plant.
- (2) A dairy farm producing and selling milk for pasteurization or milk for manufacturing.

(3) A person selling milk, milk products or manufactured dairy products from a store, when the milk or milk products have been purchased from a person already in possession of a permit to sell milk or milk products.

(4) A hotel, restaurant, soda fountain, boarding house or other place where milk, milk products or manufactured dairy products are to be consumed on-premises, and have been purchased from a person already in possession of a permit to sell milk or milk products.

(5) A person producing and selling milk from a single cow, and exempted from the permit requirement in accordance with the act.

(c) *Obtaining a permit.* A person seeking a permit may obtain a permit application and additional information by contacting the Department as described in § 59a.3 (relating to contacting the Department). An entity that meets the requirements of § 59a.25 (relating to milk, milk products and manufactured dairy products from points outside this Commonwealth) will be issued a permit.

(d) *Requirements for initial issuance of permit.* Within 30 days of receiving a complete application for an initial permit, the Department will inspect the applicant's operation to determine whether it is in compliance with the standards of the act and this chapter that would be applicable if the applicant received the permit applied for. These standards shall be met for the Department to issue the permit.

(e) *Requirements for issuance of a successor permit.* If an applicant seeks a permit that is to take effect upon the expiration of a predecessor permit, the Department will approve the permit application if the dairy operation and the milk, milk products or manufactured dairy products produced from that dairy operation meet the requirements of the act and this chapter.

(f) *Duration of permit.* A permit will be valid for no more than 1 year. Each permit will expire as of September 1 each year, unless revoked or suspended earlier by the Department.

(g) *Ownership of milk permit.* A permit is and remains the property of the Department—even when it is in the physical custody of the permitholder. If a milk permit is suspended or revoked, the person in possession of the milk permit shall immediately return or surrender that permit to the Department. In the case of a permit suspension, the Department will promptly return the permit to the permitholder at the end of the suspension period.

(h) *Refusal, revocation or suspension of a permit.*

(1) *Authority.* The Department may refuse, revoke or suspend a permit issued under the act or this section upon a finding that the applicant or permitholder has violated the act or this chapter.

(2) *Notice and opportunity for a hearing.* The Department will notify an applicant or permitholder of a proposed refusal, revocation or suspension of a permit by written notification, and will deliver it by personal service or certified mail. The notice will afford the recipient at least 5 days within which to request an administrative hearing on the proposed action. If no hearing is requested, the Department may enter its final order refusing, suspending or revoking the permit. If a hearing is requested, the Department will conduct the hearing within 30 days of receipt of the request.

(i) *Reinstatement of a suspended permit.* A person whose permit has been suspended by the Department may make written application to the Department for reinstatement of the permit. The permitholder shall coordinate with the Department to address and resolve the basis for the suspension.

(j) *Reference to applicable provisions of the Grade "A" PMO.* The provisions of the Grade "A" PMO, in particular section 3, regarding permits, apply to this section to the extent described in § 59a.11 (relating to adoption of Grade "A" PMO).

§ 59a.13. Adulterated or misbranded milk, milk products or manufactured dairy products.

(a) *Sales of adulterated or misbranded milk prohibited.* A person may not sell adulterated or misbranded milk, milk products or manufactured dairy products.

(b) *Seizure, condemnation, denaturing or destruction of milk, milk products or manufactured dairy products.* Adulterated or misbranded milk may be seized, condemned, denatured and destroyed by the Department if the Secretary considers the substance unsafe or a menace to public health.

(c) *Reference to applicable provisions of the Grade "A" PMO.* The provisions of the Grade "A" PMO, in particular section 2, regarding adulterated or misbranded milk or milk products, apply to this section to the extent described in § 59a.11 (relating to adoption of Grade "A" PMO).

§ 59a.14. Labeling: Bottles, containers and packages of milk, milk products or manufactured dairy products.

(a) *Department approval required.* A permitholder shall, before using a milk, milk product or manufactured dairy product label in commerce, apply for and obtain the approval of the Department for the use of that label. Labels in commercial use as of May 21, 2011, shall have until November 21, 2011, to come into compliance with this registration requirement.

(b) *Approval process.*

(1) A permitholder seeking the Department's approval of a milk, milk product or manufactured dairy product label shall apply to the Department at the address provided in § 59a.3 (relating to contacting the Department). The applicant may use an application form that the Department will provide upon request, or may apply by letter requesting label approval. The application must include clear, accurate copies of all labels for which approval is sought.

(2) The Department will approve the use of a milk, milk product or manufactured dairy product label if it meets the requirements of the act and this chapter, including the specific requirements of this section.

(3) The Department will, within 10 business days of receiving a complete application, mail the applicant its written approval or denial of the application.

(i) If the application is denied, the written denial will set forth the basis for denial, and afford the applicant notice and opportunity for an administrative hearing on the denial.

(ii) If the application is granted, the written approval will contain a copy of the label and assign a unique serial number to each label approved under the application. The Department will retain copies of these approvals.

(c) *Changes of approved labels.* If a label is approved under this section, colors and graphics may be changed without requiring reapproval of the label. If the text, type size or wording is to be changed, the label shall be submitted to the Department for approval in accordance with subsection (b).

(d) *Label requirements.* Bottles, containers and packages enclosing milk, milk products or manufactured dairy products offered for sale shall be labeled. The label shall be approved by the Department in accordance with this section, and contain the following information:

- (1) The name of the food.
- (2) The net contents.
- (3) The common name of the hooved mammal producing the milk preceding the name of the milk or milk product, if the milk or milk product is or is made from milk other than cow's milk.
- (4) The words "keep refrigerated after opening," if the milk or milk product is aseptically processed.
- (5) The words "keep refrigerated," if the milk or PMO-defined milk product is conventionally pasteurized or UHT pasteurized.
- (6) The words "Grade 'A'" on the exterior surface, except for bottles, containers and packages of milk and milk products that are not eligible for certification as Grade "A" or that are eligible for certification but are not currently certified. Type size may not be larger than letters in basic product name.
- (7) The identity of the milk plant where pasteurized, ultrapasteurized, aseptically processed, condensed or dried. When the name and address of a distributor appears in lieu of that of the processor, words such as "Mfg. for," "Dist. by" or "Packed for" must also appear on the label. Milk or milk products showing a general address or the name and address of a distributor shall be further labeled to identify the processing plant by assigned numerical code or the plant name and address.
- (8) The identity of the plant where processed.
- (9) The word "reconstituted" or "recombined," immediately preceding or immediately following the name of the product, in type at least half the size of name of the product which has been reconstituted, if the milk product is made by reconstitution or recombination.
- (10) The volume or proportion of water to be added for reconstitution or recombination, if the milk or milk product is concentrated milk or milk product.
- (11) In descending order of predominance, a listing of additives, such as flavors, sweeteners, milk solids, lactose, stabilizers, emulsifiers, vitamins and minerals if used.
- (12) The quantity or percentage of United States Recommended Daily Allowance (U.S. RDA) per serving, if vitamins, minerals or milk solids have been added to the milk or milk product.
- (13) The word "pasteurized," in type at least one-fourth the height of the letters in the basic product name, if the milk or milk product has been pasteurized. If desired, letters used in modifying terms and "pasteurized" may be the same size, but never larger than the product name. Printing must be readily legible.
- (14) The word "homogenized," if the milk or milk product has been homogenized.
- (15) The words "protein fortified" immediately preceding or immediately following the name of the product which has been fortified, in type at least half the size of name of the product which has been fortified, if the milk or milk product is a protein fortified dairy product. The label must include the percentage of milk solids not fat added or the percentage of U.S. RDA of protein, vitamins and minerals per serving on the information panel of the container.
- (16) The words "artificially colored," if an artificial color is used for a flavored milk other than chocolate.

(17) The words "artificially (name of flavor imitated) flavored milk" in type at least half the size of the name of the product imitated, if an artificial flavor is used for artificially flavored milk.

(18) If the milk or milk product has been cultured or acidulated after pasteurization it may, at the applicant's option, be labeled "made from pasteurized dairy products."

(19) If a milk product contains an "artificial dairy product" as defined in § 57.1 (relating to definitions) as an ingredient which replaces portions of basic compositional ingredients in the milk product, the phrase "contains artificial _____," with the blank filled in with names of the basic compositional ingredients being simulated, immediately following the name of the food.

(20) Any sell-by date information required under § 59a.15 (relating to labeling: milk dating).

(e) *Exception.* The label requirements prescribed under this section do not apply to milk tank trucks and storage tanks, which are addressed in § 59a.16 (relating to markings, sealing and documentation for vehicles containing milk and milk products), or to raw milk for human consumption, which is addressed in § 59a.411 (relating to label content review by the Department). In addition, these requirements do not apply to cans of raw milk from individual dairy farms, which must be identified by name or number of the producer.

(f) *False or misleading material.* False or misleading marks, words or endorsements upon the label are prohibited. In determining whether labeling is false or misleading, the Department will take into account not only the specific representations made on the label but also the extent to which the labeling fails to reveal facts that are material in light of such representations. The Department may issue guidance documents addressing false or misleading label statements or any other aspect of labeling under this section. Registered trade designs or terms may be permitted on the container cap or label provided they are not misleading and do not obscure the required labeling.

(g) *Reference to applicable provisions of the Grade "A" PMO.* The provisions of the Grade "A" PMO, in particular section 4, regarding labeling, apply to this section to the extent described in § 59a.11 (relating to adoption of Grade "A" PMO).

§ 59a.15. Labeling: Milk dating.

(a) *Label requirement.* The cap or nonglass container of pasteurized milk held in retail food stores, restaurants, schools or similar food facilities for resale shall be conspicuously and legibly marked in a contrasting color with the designation of the "sell-by" date—the month and day of the month after which the product may not be sold or offered for sale. The designation may be numerical—such as "8-15"—or with the use of an abbreviation for the month, such as "AUG 15 or AU 15." The words "Sell by" or "Not to be sold after" must precede the designation of the date, or the statement "Not to be sold after the date stamped above" must appear legibly on the container. This designation of the date may not exceed 17 days beginning after midnight on the day on which the milk was pasteurized.

(b) *Prominence of sell-by date on label.* The sell-by date shall be separate and distinct from any other number, letter or intervening material on the cap or nonglass container.

(c) *Prohibition.* Pasteurized milk may not be sold or offered for sale if the milk is sold or offered for sale after the sell-by date designated on the container.

(d) *Exemption.* The following pasteurized dairy products are exempt from the requirements of this section, provided that the cap or container of all pasteurized dairy products contains, a lot number or manufacturing date code that is acceptable to the Department and can be used for product traceability in the marketplace.

- (1) Ultrapasteurized dairy products.
- (2) Cultured dairy products.
- (3) Aseptically processed dairy products.
- (4) Dairy products that have undergone higher heat shorter time pasteurization.
- (5) Milk sold or offered for retail sale on the same premises at which it was processed.

(e) *Monitoring by the Department.*

(1) The Department will periodically sample containers of pasteurized milk in the possession of the processor or distributor. This sampling may occur at any time before the pasteurized milk is delivered to the store or the customer. The Department will sample at least one milk product from each processor each calendar year.

(2) The samples described in paragraph (1) will be analyzed by the Department or a Pennsylvania-approved dairy laboratory, applying a methodology in the most current edition of Dairy Practices Council Guideline No. 10, entitled "Guidelines for Maintaining and Testing Fluid Milk Shelf Life," to determine whether the bacterial test results exceed the bacterial limits for pasteurized milk described in § 59a.21 (relating to standards) prior to the expiration of the sell-by date designated on the retail container.

(3) When two or more samples demonstrate a processor cannot produce pasteurized milk that remains consistently within the bacterial limits referenced in paragraph (2) during a 17-day sell-by period, the Department will require a processor to use a sell-by date of something less than the 17-day period described in subsection (a). The Department will calculate this revised sell-by date so that bacterial growth in the milk will not exceed the referenced bacterial limits within that sell-by period if the milk is maintained in accordance with the temperature standards for pasteurized milk in § 59a.21.

(4) A processor may submit samples to the Department for analysis to obtain approval to resume a 17-day sell-by period for the product sampled. The Department will approve resumption of a 17-day sell-by period when analysis of a sample demonstrates that bacterial growth in the milk will not exceed the referenced bacterial limits within that sell-by period if the milk is maintained in accordance with the temperature standards for pasteurized milk in § 59a.21.

§ 59a.16. Markings, sealing and documentation for vehicles containing milk and milk products.

(a) *Marking requirements.* A vehicle or milk tank truck containing milk or milk products shall be legibly marked with the name and address of the milk plant or hauler in possession of the contents.

(b) *Seal requirement.* A vehicle or milk tank truck transporting raw, heat-treated or pasteurized milk and milk products to a milk plant from another milk plant, receiving station or transfer station shall be marked with

the name and address of the milk plant from which the milk or milk products are transported, and shall be sealed.

(c) *Documentation requirements.* A vehicle or milk tank truck transporting raw, heat-treated or pasteurized milk or milk products to a milk plant from another milk plant, receiving station or transfer station shall be accompanied by a legible shipping statement containing the following information:

- (1) Shipper's name, address and permit number. A milk tank truck containing milk must include on the weigh ticket or manifest the IMS Bulk Tank Unit (BTU) identification numbers or—for farm groups listed with a milk plant—the IMS Listed Milk Plant Number.
- (2) Permit identification of the hauler, if not an employee of the shipper.
- (3) Point of origin of shipment.
- (4) Tanker identification number.
- (5) Name of product.
- (6) Weight of product.
- (7) Temperature of product when loaded.
- (8) Date of shipment.
- (9) Name of supervisory regulatory agency at point of origin of shipment.
- (10) Whether the contents are raw, pasteurized or in the case of cream, lowfat milk or skim milk—whether it has been heat—treated.
- (11) Seal number on inlet, outlet, wash connections and vents.
- (12) Grade of product.

(d) *Cans of raw milk.* All cans of raw milk from individual dairy farms shall be identified by the name or permit number of the individual milk producer.

(e) *Additional documentation.* Milk transport tank trucks transporting bulk milk and dairy products must be accompanied by documentation, such as a weigh ticket or manifest, which includes the NCIMS BTU Identification Number or the NCIMS Listed Milk Plant Number, for farm groups listed with a milk plant.

(f) *Reference to applicable provisions of the Grade "A" PMO.* The provisions of the Grade "A" PMO, in particular section 4, regarding labeling, apply to this section to the extent described in § 59a.11 (relating to adoption of Grade "A" PMO).

§ 59a.17. Inspection of dairy farms and milk plants.

(a) *General inspection requirement.* Dairy farms shall be inspected by an approved inspector at intervals of no greater than 6 months, unless the dairy farm produces raw milk for human consumption under a raw milk permit, in which case the inspection shall be as prescribed in Subchapter F (relating to raw milk for human consumption). Grade "A" dairy farms shall be inspected by a certified industry inspector. Milk plants shall be inspected by an approved inspector at intervals of no greater than 3 months, or as otherwise prescribed by the Grade "A" PMO, as referenced in subsection (d).

(b) *Inspection frequency.* Each producer of milk for pasteurization will be inspected initially and on any change of market by an approved inspector, and shall have a passing score before the first milk is shipped. Producers shall be inspected at least once in each 6-month period by an approved inspector, and an accurate

record of farm inspections and quality control testing shall be maintained on forms acceptable to the Department. The records of farm inspections must include the date of inspection, any noted deficiencies, whether the inspection resulted in a passing score, suspension or reinspection. The records of quality control testing must include bacterial count, somatic cell count, drug residue screening results, temperature results, records of water supply testing, copies of warning letters and suspension letters and information required under Appendix N of the Grade "A" PMO regarding drug residue testing and farm surveillance.

(c) *Notification of producer status.* A permitholder shall, within 24 hours of its initial instatement of a producer, its suspension of a producer or its reinstatement of a producer, provide the Department the name and address of the producer and the specific action taken by the permitholder.

(d) *Reference to applicable provisions of the Grade "A" PMO.* The provisions of the Grade "A" PMO, in particular section 5, regarding inspection of dairy farms and milk plants, apply to this section to the extent described in § 59a.11 (relating to adoption of Grade "A" PMO).

§ 59a.18. Sampling and examination.

(a) *Sampling and testing costs.* Sampling and testing required under this section shall be at the expense of the permitholder or permit applicant, and shall be conducted by a Pennsylvania-approved dairy laboratory, an out-of-State dairy laboratory that is listed with the NCIMS or that operates in accordance with the current *Evaluation of Milk Laboratories, Recommendations of the United States Public Health Service/Food and Drug Administration* and current FDA 2400 Laboratory Series forms, or the Department.

(b) *Certified milk plants, receiving stations and transfer stations; milk plants and transfer stations that receive Grade "A" milk.* A milk plant, receiving station or transfer station shall comply with Appendix N of the Grade "A" PMO, regarding drug residue testing and farm surveillance, if it is certified under the NCIMS Interstate Milk Shippers Program, or if it receives Grade "A" milk.

(c) *Noncertified milk plants and transfer stations.* Milk plants that are not certified under the NCIMS Interstate Milk Shippers Program, and which do not receive bulk shipments of Grade "A" milk, shall obtain a representative sample of commingled milk for pasteurization each processing day. The sample shall be collected by a certified industry plant sampler and analyzed for *Beta lactam* drug residues in a laboratory as described in subsection (a). If a milk plant is not certified under the NCIMS Interstate Milk Shippers Program, does not receive bulk shipments of Grade "A" milk and produces that milk in accordance with a written quality control program addressing the use of animal drugs at that dairy operation, that milk plant may request a variance from the testing requirements in this subsection. The request shall be in writing and include a copy of the written quality control program. The Department may, on the basis of the request, issue a variance with respect to the requirements in this subsection. A variance issued under this subsection will be valid for no more than 1 year and may be renewed for additional periods of up to 1 year following the Department's review of the quality control program and any onsite inspections the Department deems necessary to determine whether a successor variance should be issued.

(d) *Drug residue testing.* Drug residue screening test records shall be maintained on file by the permitholder for at least 2 years.

(e) *Reference to applicable provisions of the Grade "A" PMO.* The provisions of the Grade "A" PMO, in particular section 6 and Appendix N, regarding examination of milk and milk products and drug residue testing and farm surveillance, apply to this section to the extent described in § 59a.11 (relating to adoption of Grade "A" PMO).

(f) *Interpretation of Grade "A" PMO.* When milk is excluded from market under a provision of the Grade "A" PMO on the basis of an accumulation of violative test results and the accelerated sampling testing called for under the Grade "A" PMO results in the provisional or final return of milk to market, the Department will consider tests preceding the date of return to market in determining future accumulations of violative test results.

§ 59a.19. Standards for Grade "A" milk for pasteurization, ultrapasteurization or aseptic processing.

(a) *Applicability.* The standards prescribed under this section apply to a dairy farm that produces milk for pasteurization, ultrapasteurization or aseptic processing regardless of whether the dairy farm is certified under the NCIMS Interstate Milk Shippers Program.

(b) *Reference to applicable provisions of the Grade "A" PMO.* The provisions of the Grade "A" PMO, in particular the *Standards for Grade "A" Raw Milk for Pasteurization, Ultrapasteurization or Aseptic Processing* set forth in that document and section 7, regarding standards for Grade "A" milk and milk products, are incorporated by reference as regulations authorized under the act, to the extent they do not conflict with the act or any provision of this chapter. This includes all of the items listed under the referenced Grade "A" PMO provisions, including the following:

- (1) Item 1r. Abnormal milk
- (2) Item 2r. Milking Barn, Stable or Parlor—Construction
- (3) Item 3r. Milking Barn, Stable or Parlor—Cleanliness
- (4) Item 4r. Cowyard
- (5) Item 5r. Milkhouse—Construction and Facilities
- (6) Item 6r. Milkhouse—Cleanliness
- (7) Item 7r. Toilet
- (8) Item 8r. Water Supply, with the additional requirement that a plate heat exchanger or tubular cooler installed and in use on a dairy farm shall be equipped with an appropriate backflow prevention device
- (9) Item 9r. Utensils and Equipment—Construction
- (10) Item 10r. Utensils and Equipment—Cleaning
- (11) Item 11r. Utensils and Equipment—Sanitization
- (12) Item 12r. Utensils and Equipment—Storage
- (13) Item 13r. Milking—Flanks, Udders and Teats
- (14) Item 14r. Protection from Contamination
- (15) Item 15r. Drug and Chemical Control
- (16) Item 16r. Personnel—Handwashing Facilities
- (17) Item 17r. Personnel—Cleanliness
- (18) Item 18r. Raw Milk Cooling, with the exception that milk for pasteurization shall be cooled to 4° C (40° F)

within 2 hours after completion of milking, and shall be delivered to the plant within 72 hours of the initial milking

(19) Item 19r. Insect and Rodent Control

§ 59a.20. Standards for Grade “A” pasteurized, ultrapasteurized and aseptically processed milk and milk products.

(a) *Applicability.* The standards prescribed under this section apply to a milk plant regardless of whether it is certified under the NCIMS Interstate Milk Shippers Program.

(b) *Reference to applicable provisions of the Grade “A” PMO.* The provisions of the Grade “A” PMO, in particular the *Standards for Grade “A” Pasteurized, Ultrapasteurized and Aseptically Processed Milk and Milk Products* and section 7, regarding standards for Grade “A” milk and milk products, apply to this section to the extent described in § 59a.11 (relating to adoption of Grade “A” PMO). This includes all of the items listed under the referenced Grade “A” PMO provisions, including the following:

- (1) Item 1p. Floors—Construction
- (2) Item 2p. Walls and Ceilings—Construction
- (3) Item 3p. Doors and Windows
- (4) Item 4p. Lighting and Ventilation
- (5) Item 5p. Separate Rooms
- (6) Item 6p. Toilet-Sewage Disposal Facilities
- (7) Item 7p. Water Supply
- (8) Item 8p. Handwashing Facilities
- (9) Item 9p. Milk Plant Cleanliness
- (10) Item 10p. Sanitary Piping
- (11) Item 11p. Construction and Repair of Containers and Equipment
- (12) Item 12p. Cleaning and Sanitizing of Containers and Equipment
- (13) Item 13p. Storage of Cleaned Containers and Equipment
- (14) Item 14p. Storage of Single-Service Containers, Utensils and Materials
- (15) Item 15p. Protection from Contamination
- (16) Item 16p. Pasteurization and Aseptic Processing
- (17) Item 17p. Cooling of Milk and Milk Products
- (18) Item 18p. Bottling, Packaging and Container Filling
- (19) Item 19p. Capping, Container Closure and Sealing and Dry Milk Product Storage
- (20) Item 20p. Personnel—Cleanliness
- (21) Item 21p. Vehicles
- (22) Item 22p. Surroundings

§ 59a.21. Standards.

(a) *Standards for milk and milk products.* The standards that apply to milk and milk products are as set forth in section 7 of the Grade “A” PMO, in Table 1, regarding chemical, physical, bacteriological, and temperature standards.

(b) *Standards for milk for manufacturing and manufactured dairy products.* The standards that apply to milk for manufacturing and manufactured dairy products are

as set forth in Subchapter C (relating to production and processing of milk for manufacturing purposes). Other fluid derivatives of milk, including condensed milk and milk products, nonfat dry milk and milk products, condensed whey and whey products, and buttermilk and buttermilk products, may be processed according to the standards and requirements for manufactured grade milk and milk products provided that they meet all applicable requirements of Subchapter C.

(c) *Standards for ice cream and frozen dessert mixes.* Frozen desserts—vanilla, chocolate, and one other flavor when applicable—shall be tested at least monthly for the standard plate count and coliform group. Frozen desserts mix shall be tested at least monthly for the standard plate count, coliform group, and phosphatase activity. The following are the specific standards for ice cream and frozen dessert mixes:

(1) *Temperature.* Cooled to 45° F (7° C) or less and maintained thereat.

(2) *Bacterial limits applicable to all but cultured products.* 50,000 per gram.

(3) *Coliform.* Not to exceed 10 per gram. When fruit or nuts and flavoring are added after pasteurization, the count shall not exceed 20 per gram.

(4) *Phosphatase.* Less than 350 milliunits per liter by approved electronic phosphatase procedures.

(5) *Drugs.* On test of milk ingredients, no positive results on drug residue detection methods as referenced in section 7 of the Grade “A” PMO, Table 1, regarding chemical, physical, bacteriological and temperature standards.

(d) *Reference to applicable provisions of the Grade “A” PMO.* The provisions of the Grade “A” PMO and, in particular, section 7 and Appendix N of that document regarding examination of milk and milk products and drug residue testing and farm surveillance, respectively, apply to this section to the extent described in § 59a.11 (relating to adoption of Grade “A” PMO).

§ 59a.22. Animal health.

The provisions of the Grade “A” PMO, in particular section 8, regarding animal health, apply to this section to the extent described in § 59a.11 (relating to adoption of Grade “A” PMO).

§ 59a.23. Milk and milk products which may be sold.

The provisions of the Grade “A” PMO, in particular section 9, regarding milk and milk products which may be sold, apply to this section to the extent described in § 59a.11 (relating to adoption of Grade “A” PMO).

§ 59a.24. Transferring; delivery containers; cooling.

The provisions of the Grade “A” PMO, in particular section 10, regarding transferring; delivery; containers; cooling, apply to this section to the extent described in § 59a.11 (relating to adoption of Grade “A” PMO).

§ 59a.25. Milk, milk products and manufactured dairy products from points outside this Commonwealth.

(a) *General requirement.* Milk, milk products and manufactured dairy products originating from outside this Commonwealth may be sold in this Commonwealth if they are produced and pasteurized, ultrapasteurized, or aseptically processed, concentrated (condensed) or dried

under regulations which are substantially equivalent to the Grade "A" PMO and one or more of the following apply:

(1) The products have been awarded acceptable Milk Sanitation Compliance and Enforcement Ratings by a Milk Sanitation Rating Officer certified by FDA.

(2) The products have been awarded a satisfactory HACCP listing, under a HACCP Program as specified in Appendix K of the Grade "A" PMO.

(3) The products originate from a country that the FDA has, following consultation with NCIMS, determined to have in place a public health regulatory program and government oversight of that program that have an equivalent effect on the safety of regulated milk or milk products, or both.

(4) The products are USDA-approved manufactured dairy products.

(5) The products have a Department-issued milk permit.

(b) *Reference to applicable provisions of the Grade "A" PMO.* The provisions of the Grade "A" PMO, in particular section 11, regarding milk and milk products from points beyond the limits of routine inspection, apply to this section to the extent described in § 59a.11 (relating to adoption of Grade "A" PMO).

§ 59a.26. Plans for construction and reconstruction.

(a) *Specific requirements.* Properly prepared plans for all transfer stations, receiving stations, and milk plants regulated under this chapter which are constructed, reconstructed, or extensively altered shall be submitted to the Secretary for written approval before work is begun. Plans must likewise be approved before construction or extensive modification of a manure storage system; installation of a bulk milk storage tank; installation of a milk transfer system on a dairy farm; or installation of milk handling equipment in a transfer station, receiving station, or milk plant.

(b) *Reference to applicable provisions of the Grade "A" PMO.* The provisions of the Grade "A" PMO, in particular section 12, regarding plans for construction and reconstruction, apply to this section to the extent described in § 59a.11 (relating to adoption of Grade "A" PMO).

§ 59a.27. Personnel health.

The provisions of the Grade "A" PMO, in particular section 13, regarding personnel health, are adopted as the regulatory standards of the Department to the extent described in § 59a.11 (relating to adoption of Grade "A" PMO).

§ 59a.28. Procedure when infection or high risk of infection is discovered.

(a) *Specific requirements.* When reasonable cause exists to suspect the possibility of transmission of infection from a person concerned with the handling of milk or milk products, the Department is authorized to require one or more of the following measures:

(1) The immediate exclusion of that person from handling milk or milk products, or the handling of related milk or milk-product contact surfaces, subject to release from this exclusion if in accordance with Table 5 of section 15 of the Grade "A" PMO.

(2) The immediate exclusion of the milk supply concerned from distribution and use.

(3) Adequate medical and bacteriological examination of the person and his associates and of their body discharges.

(b) *Reference to applicable provisions of the Grade "A" PMO.* The provisions of the Grade "A" PMO, in particular section 16, regarding procedure when infection or high risk of infection is discovered, apply to this section to the extent described in § 59a.11 (relating to adoption of Grade "A" PMO).

Subchapter C. PRODUCTION AND PROCESSING OF MILK FOR MANUFACTURING PURPOSES

Sec.

- 59a.101. Adoption of USDA recommended requirements.
- 59a.102. Milk permits.
- 59a.103. Plant inspection.
- 59a.104. Certification of bulk milk collectors-weighers/samplers.
- 59a.105. Approved milk graders.
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- 59a.111. Drug residue level.
- 59a.112. Rejected milk.
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- 59a.114. Inspection and quality testing of milk from producers.
- 59a.115. Record of tests.
- 59a.116. Abnormal milk.
- 59a.117. Animal health.

§ 59a.101. Adoption of USDA recommended requirements.

The provisions, terms, procedures and standards of the most current version of the publication of the United States Department of Agriculture, Agricultural Marketing Service, Dairy Programs, titled *Milk for Manufacturing Purposes and its Production and Processing—Recommended Requirements*, are adopted as the regulatory standards of the Department to the extent they do not conflict with one or more of the following:

- (1) The act.
- (2) The Food Safety Act.
- (3) A provision of this subchapter.

§ 59a.102. Milk permits.

Plants, receiving stations, transfer stations and bulk tank units handling or processing milk for manufacturing of dairy products shall apply for a permit in accordance with § 59a.12 (relating to permits) which describes the process and requirements by which permits are acquired and maintained.

(1) Permits are required for the sale of milk for manufacturing purposes and manufactured dairy products. Application shall be made annually on a form secured from the Secretary.

(2) A separate permit shall be obtained for each plant, receiving station, transfer station and bulk tank unit.

(3) The permit year begins September 1 of each year and ends on August 31 of the following year.

§ 59a.103. Plant inspection.

Plants receiving milk or dairy products, for manufacturing or further processing, will be subject to inspection by the Secretary or an agent.

§ 59a.104. Certification of bulk milk collectors—weighers/samplers.

(a) Weighers/samplers will be evaluated and approved by the Department.

(b) The provisions of the Grade "A" PMO, in particular Appendix B, regarding the required training and periodic evaluation of weighers/samplers, apply to this section to the extent described in § 59a.11 (relating to adoption of Grade "A" PMO).

§ 59a.105. Approved milk graders.

Milk graders will be approved by the Department based upon the milk grader being capable of determining the quality classification of raw milk for manufacturing purposes in accordance with §§ 59a.106—59a.111.

§ 59a.106. Basis.

The quality classification of raw milk for manufacturing purposes shall be based on an organoleptic examination for appearance and odor, a drug residue test and quality control tests for sediment content, bacterial estimate and somatic cell count.

§ 59a.107. Appearance and odor.

The appearance of acceptable raw milk for manufacturing purposes must be normal and free of excessive coarse sediment when examined visually or by the methods described in § 59a.108(a) (relating to sediment content classification). The milk may not show any abnormal condition including curdles, ropy, bloody or mastitic conditions, as indicated by visual examination of the milk. The odor must be fresh and sweet. The milk must be free from objectionable feed and other off-odors that would adversely affect the finished product.

§ 59a.108. Sediment content classification.

(a) *Method of testing.* Methods for determining the sediment content of the milk of individual producers shall be those described in the *Standard Methods for the Examination of Dairy Products*. Sediment content must be based on comparison with applicable charts of the United States Sediment Standards for Milk and Milk Products. These charts are available from the Dairy Standardization Branch, Dairy Programs, Agricultural Marketing Service, United States Department of Agriculture, Room 2746-South, 1400 Independence Avenue, S.W., Washington, D.C. 20250-0230.

(b) *Classifications.* Milk shall be classified for sediment content in accordance with the USDA Sediment Standard, regardless of the results of the appearance and odor examination described in § 59a.107 (relating to appearance and odor), as set forth in this subsection. The USDA Sediment Standard defines the following classifications:

(1) Milk classified as "No. 1" has a tested sediment content that does not exceed 0.50 mg. or equivalent, and is acceptable.

(2) Milk classified as "No. 2" has a tested sediment content that does not exceed 1.50 mg. or equivalent, and is acceptable.

(3) Milk classified as "No. 3" has a tested sediment content that does not exceed 2.50 mg. or equivalent, and is probational for not more than 10 days.

(4) Milk classified as "No. 4" has a tested sediment content that exceeds 2.50 mg. or equivalent, and is rejected.

(c) *Frequency of tests.* At least once each month, at irregular intervals, the milk from each producer shall be tested as follows:

(1) *Milk in cans.* A sample shall be taken from one or more cans of milk selected at random from each producer.

(2) *Milk in farm bulk tanks.* A sample shall be taken from each farm bulk tank.

(d) *Acceptance or rejection of milk.*

(1) If the sediment disc is classified as No. 1, No. 2 or No. 3, the producer's milk may be accepted.

(2) If the sediment disc is classified as No. 4, the milk shall be rejected.

(3) If the shipment of milk is commingled with other milk in a transport tank, the next shipment may not be accepted until its quality has been determined at the farm before being picked up. If the person making the test is unable to get to the farm before the next shipment, it may be accepted but no further shipments shall be accepted unless the milk meets the requirements of No. 3 or better. In the case of milk classified as No. 3 or No. 4, if in cans, all cans shall be tested. Producers of No. 3 or No. 4 milk-cans or bulk-shall be notified immediately and shall be furnished applicable sediment discs and the next shipment shall be tested.

(e) *Retests.* On tests of the next shipment (if in cans, all cans shall be tested) milk classified as No. 1, No. 2 or No. 3, may be accepted, but No. 4 milk shall be rejected. Retests of bulk milk classified as No. 4 shall be made at the farm before pickup. The producers of No. 3 or No. 4 milk shall be notified immediately, furnished applicable sediment discs and the next shipment shall be tested. This procedure of retesting successive shipments and accepting probational (No. 3) milk and rejecting No. 4 milk may be continued for a period not to exceed 10 calendar days. If, at the end of this time, all of the producer's milk does not meet the acceptable sediment content classification (No. 1 or No. 2), it shall be excluded from market.

§ 59a.109. Bacterial estimate classification.

(a) *General testing requirement.* A laboratory examination to determine the bacterial estimate shall be made on each producer's milk at least once each month at irregular intervals. Samples shall be analyzed at a Pennsylvania-approved dairy laboratory. The laboratory must report the results to the permitholder.

(b) *Testing methods.* Milk shall be tested for bacterial estimate by using one of the following methods or by any other method approved by the *Standard Methods for the Examination of Dairy Products*, and include the following:

- (1) Direct microscopic clump count.
- (2) Standard plate count.
- (3) Plate loop count.
- (4) Bactoscan™ count.
- (5) Pectin gel plate count.
- (6) Petrifilm™ aerobic count.
- (7) Spiral plate count.
- (8) Hydrophobic grid membrane filter count.
- (9) Impedance/conductance count.

(10) Other tests that have been approved by the Department through publication of notice in the *Pennsylvania Bulletin*.

(c) *Excessive bacteria.* Whenever the bacterial estimate indicates the presence of more than 500,000 bacteria per milliliter, the result shall be noted as a violation in the permitholder's records. When two of the last four consecutive bacterial estimates exceed 500,000 per milliliter, the permitholder shall send a written warning notice to the

producer in violation. This notice shall be in effect as long as two of the last four consecutive samples exceed the limit of the standard.

(d) *Excluding milk with excessive bacteria from the market.* If a producer receives the written notice described in subsection (c), the producer shall have an additional sample taken between 3 and 21 days after receiving the notice. If this sample also exceeds 500,000 per milliliter, subsequent milkings shall be excluded from the market until satisfactory compliance is obtained. Shipment may be resumed and a temporary status assigned to the producer by the Department when an additional sample of herd milk is tested and found satisfactory. The producer shall be assigned a full reinstatement status when three out of four consecutive bacterial estimates do not exceed 500,000 per milliliter. The samples shall be taken at a rate of not more than two per week on separate days within a 3-week period.

§ 59a.110. Somatic cell count.

(a) *General testing requirement.* A laboratory examination to determine the level of somatic cells shall be made on each producer's milk at least once each month. Samples shall be analyzed at a Pennsylvania-approved dairy laboratory. The laboratory must report the results to the permitholder.

(b) *Testing methods.* Milk shall be tested for somatic cell content by using one of the following procedures:

- (1) Direct Microscopic Somatic Cell Count (Single Strip Procedure).
- (2) Electronic Somatic Cell Count.
- (3) Flow Cytometry/Opto-Electronic Somatic Cell Count.
- (4) Membrane Filter DNA Somatic Cell Count.

(c) *Excessive somatic cell count.* Whenever the official test indicates the presence of more than 750,000 somatic cells per milliliter (1,500,000/ml for goat milk), the result shall be noted as a violation in the permitholder's records. When two of the last four consecutive bacterial estimates exceed 750,000/ml (1,500,000/ml for goat milk), the permitholder shall send a written warning notice to the producer in violation. This notice shall be in effect as long as two of the last four consecutive samples exceed the limit of the standard.

(d) *Excluding milk with an excessive somatic cell count from the market.* If a producer receives the written notice described in subsection (c)(2), the producer shall have an additional sample taken between 3 and 21 days after receiving the notice. If this sample also exceeds 750,000 per milliliter, subsequent milkings shall be excluded from the market until satisfactory compliance is obtained. Shipment may be resumed and a temporary status assigned to the producer by the Department when an additional sample of herd milk is tested and found satisfactory. The producer shall be assigned a full reinstatement status when three out of four consecutive somatic cell count tests do not exceed 750,000 per milliliter. The samples shall be taken at a rate of not more than two per week on separate days within a 3-week period.

§ 59a.111. Drug residue level.

(a) *Industry responsibilities.* Manufactured dairy products permitholders shall meet the requirements of this section to confirm their manufactured dairy products are free of violative drug residues.

(1) *Sampling and testing program.*

(i) Milk shipped for processing or intended to be processed on the farm where it was produced shall be sampled and tested, prior to processing, for *beta lactam* drug residue. Collection, handling and testing of samples shall be done according to procedures established by the Department in this section, and in accordance with Appendix N of the Grade "A" PMO, regarding drug residue testing and farm surveillance. If a person processes milk on the farm where it was produced and produces that milk in accordance with a written quality control program addressing the use of animal drugs at that dairy operation, that person may request a variance from the testing requirements of this subparagraph. The request shall be in writing and include a copy of the written quality control program. The Department may, on the basis of the request, issue a variance with respect to the requirements of this subparagraph. A variance issued under this subparagraph will be valid for no more than 1 year and may be renewed for additional periods of up to 1 year following the Department's review of the quality control program and any on-farm inspections the Department deems necessary to determine whether a successor variance should be issued.

(ii) When so specified by the FDA, milk shipped for processing, or intended to be processed on the farm where it was produced, shall be sampled and tested, prior to processing, for other drug residues under a random drug sampling program. The random drug sampling program must include at least four samples collected in at least 4 separate months during any consecutive 6-month period.

(iii) When the Commissioner of the FDA determines that a potential problem exists with an animal drug residue or other contaminant in the milk supply, a sampling and testing program shall be conducted, as determined by the FDA. The testing shall continue until the Commissioner of the FDA determines with reasonable assurance that the potential problem has been remedied.

(iv) The dairy industry shall analyze samples for *beta lactams* and other drug residues by methods which have been independently evaluated or evaluated by the FDA and accepted by the FDA as effective to detect drug residues at current safe or tolerance levels. Safe and tolerance levels for particular drugs are established by the FDA.

(v) Sample test results for milk that does not test positive shall be recorded. The test result records shall be retained for 6 months.

(2) *Individual producer sampling.*

(i) *Bulk milk.* A milk sample for *beta lactam* drug residue testing shall be taken at each farm and include milk from each farm bulk tank. The sample shall be tested for *beta lactam* drug residues on the same monthly schedule as the bacterial estimate testing described in § 59a.109 (relating to bacterial estimate classification).

(ii) *Can milk.* A milk sample for *beta lactam* drug residue testing shall be formed separately at the receiving plant for each can milk producer included in a delivery, and shall be representative of all milk received from the producer. The sample shall be tested for *beta lactam* drug residues on the same monthly schedule as the bacterial estimate testing described in § 59a.109.

(iii) *Producer/processor.* A milk sample for *beta lactam* drug residue testing shall be formed separately according to subparagraphs (i) and (ii) for milk produced or received by a producer/processor. The sample shall be tested for

beta lactam drug residues on the same monthly schedule as the bacterial estimate testing described in § 59a.109.

(3) *Load sampling and testing.*

(i) *Bulk milk.* A load sample shall be taken from the bulk milk pickup tanker and tested for *beta lactam* residues after its arrival at the plant and prior to further commingling.

(ii) *Can milk.* A load sample representing all of the milk received on a shipment shall be formed at the plant using a sampling procedure that includes milk from every can on the vehicle and tested for *beta lactam* residues.

(iii) *Producer/processor.* A daily load sample shall be formed at the plant using a sampling procedure that includes all milk produced and received at the plant that day and tested for *beta lactam* residues.

(4) *Sample and record retention.* A load sample that tests positive for drug residue shall be retained for at least 12 months. The records of all positive sample test results shall be retained for at least 24 months.

(5) *Industry follow-up.*

(i) When a load sample tests positive for drug residue, an employee or representative of the receiving plant shall notify the Department immediately of the positive test result and of the intended disposition of the shipment of milk containing the drug residue. Milk testing positive for drug residue shall be disposed of in a manner that removes it from the human or animal food chain, except when acceptably reconditioned under FDA compliance policy guidelines.

(ii) Each individual producer sample represented in the positive-testing load sample shall be individually tested as directed by the Department to determine the producer of the milk sample testing positive for drug residue. Identification of the producer responsible for producing the milk testing positive for drug residue, and details of the final disposition of the shipment of milk containing the drug residue, shall be reported immediately to the Department.

(iii) Milk shipment from the producer identified as the source of milk testing positive for drug residue shall cease immediately and may resume only after a sample from a subsequent milking does not test positive for drug residue.

(b) *Responsibilities of the Department.*

(1) *Monitoring and surveillance.* The Department will monitor the milk industry's drug residue program by conducting unannounced onsite inspections to observe testing and sampling procedures and to collect samples for comparison drug residue testing. In addition, the Department will review industry records for compliance with drug residue program requirements. The review will seek to determine that the following conditions are met:

(i) Each producer is included in a routine, effective drug residue milk monitoring program utilizing methods evaluated and found acceptable by FDA to test samples for the presence of drug residue.

(ii) The Department receives prompt notification from industry personnel of each occurrence of a sample testing positive for drug residue, and of the identity of each producer identified as a source of milk testing positive for drug residue.

(iii) The Department receives prompt notification from industry personnel of the intended and final disposition of milk testing positive for drug residue, and that disposal of

the load is conducted in a manner that removes it from the human or animal food chain, except when acceptably reconditioned under FDA compliance policy guidelines.

(iv) Milk shipment from a producer identified as a source of milk testing positive for drug residue completely and immediately ceases until a milk sample taken from the dairy herd does not test positive for drug residue.

(2) *Enforcement.*

(i) Any time milk is found to test positive for drug residue, the Department will immediately take action to suspend the producer's milk shipping privileges to prevent the sale of milk from the producer shipping milk testing positive for drug residue.

(ii) The producer's milk shipping privileges may be reinstated when a representative sample taken from the producer's milk, prior to commingling with any other milk, is no longer positive for drug residue.

(iii) The penalty shall be for the value of all milk on the contaminated load plus any costs associated with the disposition of the contaminated load. The Department may accept certification from the violative producer's milk marketing cooperative or purchaser of milk as satisfying the penalty requirements.

(iv) Whenever a drug residue test is positive, an investigation shall be made to determine the cause. Action shall be taken to prevent future occurrences.

(v) If a producer ships milk testing positive for drug residue three times within a 12-month period, the producer shall follow best management practices that include testing each shipment for drug residues prior to pick-up.

(vi) The actions and procedures of the Department will be in accordance with this chapter and Appendix N of the Grade "A" PMO, regarding drug residue testing and farm surveillance.

§ 59a.112. Rejected milk.

(a) *Rejection requirement.* A plant shall reject specific milk from a producer if it fails to meet the requirements under § 59a.107 (relating to appearance and odor), if it is classified No. 4 for sediment content, or if it tests positive for drug residue.

(b) *Tagging and coloring rejected milk.* Rejected milk shall be identified with a reject tag and colored with harmless food coloring.

§ 59a.113. Suspended milk for manufacturing.

A plant may not accept milk from a producer if one of the following occurs:

(1) The producer's initial milk shipment to a plant is classified as No. 3 for sediment content, as described in § 59a.108 (relating to sediment content classification).

(2) The milk has been in a probational (No. 3) sediment content classification for more than 10-calendar days.

(3) Three of the last five milk samples have exceeded the maximum bacterial estimate of 500,000 per milliliter, as described in § 59a.109 (relating to bacterial estimate classification).

(4) Three of the last five milk samples have exceeded the maximum somatic cell count level of 750,000 per milliliter (1,500,000/ml for goat milk), as described in § 59a.110 (relating to somatic cell count).

(5) The producer's milk shipments to either the Grade "A" milk market or the manufacturing grade milk market are currently prohibited due to a positive drug residue test.

(6) The milk contains added water. For purposes of this requirement, samples analyzed for added water and found to have a freezing point above -0.525°F (0.508°C) shall be considered adulterated unless proven free of added water.

§ 59a.114. Inspection and quality testing of milk from producers.

(a) *Inspections.* Inspections shall be as follows:

(1) A dairy farm on which milk is produced for manufacturing purposes shall be inspected initially and have a passing score before the first milk is shipped.

(2) The dairy farm of a producer, on a change of market shall be inspected by an approved inspector and have a passing score before the first milk is shipped.

(3) Dairy farms shall be inspected at least once in each 6-month period by an approved inspector.

(b) *Testing of first shipment.* An examination and tests shall be made on the first shipment of milk from producers shipping milk to a plant for the first time or after a period of nonshipment. The milk must meet the following requirements:

(1) The requirements of § 59a.107 (relating to appearance and odor).

(2) The requirements of § 59a.108 (relating to sediment content classification).

(3) The requirements of § 59a.109 (relating to bacterial estimate classification).

(4) The requirements of § 59a.110 (relating to somatic cell count).

(5) The requirements of § 59a.111 (relating to drug residue level).

(c) *Testing of subsequent shipments.* For all shipments of milk not described in subsection (b), testing must meet the following requirements:

(1) The requirements of § 59a.107.

(2) The requirements of § 59a.108.

(3) The requirements of § 59a.109.

(4) The requirements of § 59a.110.

(5) The requirements of § 59a.111.

(d) *Transfer producers.* When a producer discontinues milk delivery to one plant and begins delivery to a different plant, the provisions of the Grade "A" PMO, in particular section 5, regarding certified industry inspection and change-of-market requirements, apply to the extent described in § 59a.11 (relating to adoption of Grade "A" PMO).

§ 59a.115. Record of tests.

Accurate records of the results of the milk quality and drug residue tests for each producer shall be kept on file for 24 months and be available for examination by the Department.

§ 59a.116. Abnormal milk.

(a) *Certain milk to be excluded from human consumption.* Cows which show evidence of the secretion of abnormal milk in one or more quarters based on bacteriological, chemical or physical examination and cows which have been treated with or have consumed chemical, medicinal or radioactive agents which are capable of being secreted in the milk in excess of any established limits and which may be deleterious to human health

shall be milked last or with separate equipment and the milk may not be offered for sale for human consumption.

(b) *Medicinal agents.* Milk from cows being treated with medicinal agents may not be offered for sale for periods recommended by the attending veterinarian or as indicated on the package label of the medicinal agent.

(c) *Pesticides.* Milk from cows treated with or exposed to pesticides not approved for use on dairy cattle by the United States Environmental Protection Agency may not be offered for sale until the milk has been tested and found acceptable by the Secretary, in accordance with the procedures and standards set forth in Appendix N of the Grade "A" PMO, regarding drug residue testing and farm surveillance.

(d) *Visibly abnormal milk and odorous milk.* Bloody, stringy, off-color milk or milk abnormal in sight and odor shall be handled and disposed of to preclude the infection of other cows, and the contamination of the utensils.

(e) *Equipment, utensils and containers.* Equipment, utensils and containers used for handling of abnormal milk may not be used for the handling of milk to be offered for sale unless they are first effectively cleaned and sanitized.

(f) *Poultry litter and recycled animal body discharges.* Poultry litter and recycled animal body discharges may not be fed to lactating dairy animals.

§ 59a.117. Animal health.

(a) *General health.* Animals in the herd shall be maintained in a healthy condition, and shall be properly fed and kept.

(b) *Tuberculin test.* The lactating animals shall be located in a modified accredited state or zone, an accredited free state or zone, or an accredited free herd as determined by the United States Department of Agriculture under 9 CFR Part 77 (relating to tuberculosis). If the animals are not located in those areas or zones, they shall be tested annually in accordance with that United States Department of Agriculture program. Additions to the herd shall be from an area or from herds meeting those same requirements.

(c) *Brucellosis test.* The lactating animals shall be located in states or areas meeting Class B status, or Certified Brucellosis-Free Herds, as determined by the United States Department of Agriculture under 9 CFR Part 78 (relating to brucellosis) or shall be involved in a milk ring test program or blood testing program under the current USDA Brucellosis Eradication Uniform Methods and Rules. Additions to the herd shall be from a State, area or herd meeting these same requirements.

(d) *Prohibition.* Brucellosis and tuberculosis reactors disclosed shall be separated immediately from the milking herd. Milk from brucellosis or tuberculosis reactors may not be sold.

Subchapter D. FARMS PRODUCING MILK FOR MANUFACTURING

Sec.

- 59a.201. Farm inspection.
- 59a.202. Milking facilities and housing.
- 59a.203. Milking procedures.
- 59a.204. Cooling and storage.
- 59a.205. Milkhouse or milkroom.
- 59a.206. Utensils and equipment.
- 59a.207. Water supply.
- 59a.208. Sewage disposal.

§ 59a.201. Farm inspection.

Farms producing and selling milk for manufacturing purposes shall comply with the following inspection provisions:

(1) Each dairy farm operated by a producer of milk for manufacturing purposes shall be inspected initially and on any change of market by an approved inspector and shall have a passing score before the first milk is shipped. To attain a passing score, there may not be deficiencies in areas of major significance to the sanitary quality of the farm's milk supply unless these deficiencies are immediately corrected during the inspection. These areas of major significance include toilet, water supply, construction of utensils and equipment, cleaning and sanitizing of equipment, cow cleanliness and proper storage and labeling of medications. Dairy farms producing milk for manufacturing purposes shall be inspected every 6 months by an approved inspector, and an accurate record of inspections shall be maintained by each permit holder for 24 months.

(2) Producers who cannot produce milk of a wholesome sanitary quality will be suspended. Producers who are not in substantial compliance with this section or § 59a.102 (relating to milk permits) will be reinspected after an appropriate time for correction of deficiencies. Milk for manufacturing is of wholesome sanitary quality if it meets the applicable requirements of Subchapter C (relating to production and processing of milk for manufacturing purposes), including those relating to appearance and odor, drug residue, sediment content, bacterial estimate and somatic cell count, and § 59a.202 (relating to milking facilities and housing).

(3) A permit holder shall promptly notify the Department of initial instatement, suspension or reinstatement of a producer from which milk for manufacturing is or was received. Identification of the producer, including name and address, shall be provided orally or by mail within 24 hours of the action.

§ 59a.202. Milking facilities and housing.

(a) *General requirements.* A milking barn or milking parlor of adequate size and arrangement shall be provided to permit normal sanitary milking operations. It shall be well lighted and ventilated, and the floors and gutters in the milking area shall be constructed of concrete or other impervious material. The facility shall be kept clean, the manure removed daily and stored to prevent access of lactating animals to accumulation thereof. Swine or fowl may not be permitted in the milking area. When a milking barn is used and horses are present, the horses shall be stalled in a separate area a sufficient distance from the milking area or separated by tight partitions.

(b) *Platforms and ramps.* If a milking barn or milking parlor has ramps and platforms that are used to elevate lactating animals, these ramps and platforms must be constructed of an impervious material such as steel. Wooden platforms and ramps are prohibited. Rubber mats may be used as long as they are not placed over a wooden platform.

(c) *Concentrates and feed storage.* Concentrates and feed, if stored in the building, shall be stored in a tightly covered box, bin or container.

(d) *Protection of exposed milk.* If milk is exposed during straining or transferring in the milking area, it shall be protected from falling particles from areas above the milk facility.

(e) *Yard requirements.* The yard or loafing area must be of ample size to prevent overcrowding, be drained to prevent forming of standing water pools, insofar as practicable, and kept clean.

§ 59a.203. Milking procedures.

(a) *Cleanliness of udders and flanks.* The udders and flanks of all lactating animals shall be kept clean. The udders and teats shall be washed or wiped immediately before milking with a clean, damp cloth or paper towel moistened with a sanitizing solution and wiped dry or by another sanitary method approved in writing by the Department.

(b) *Milker.* The milker's outer clothing must be clean and his hands clean and dry. A person with an infected cut or open sores on the person's hands or arms may not milk lactating animals, or handle milk or milk containers, utensils or equipment.

(c) *Equipment.* Milk stools, surcingles or antikickers shall be kept clean and properly stored. Dusty operations may not be conducted immediately before or during milking. Strong flavored feeds may not be fed immediately before or during milking.

(d) *Abnormal milk.* In addition to the requirements of § 59a.116 (relating to abnormal milk), abnormal milk may not be squirted on the floor, on the platform or in the producer's hand. Producers shall also wash their hands after handling equipment and handling the teats and udders of animals producing abnormal milk.

§ 59a.204. Cooling and storage.

(a) *Milk in cans.* Milk in cans shall be cooled immediately after milking to 50° F or lower at the farm, and not exceed 55° F upon delivery to the plant, unless delivered to the plant within 2 hours after milking. The cooler, tank or refrigerated unit shall be kept clean. Maximum time of delivery of milk to a milk plant shall be within 48 hours of initial milking.

(b) *Milk in farm bulk tanks.* Milk in farm bulk tanks shall be cooled to 40° F within 2 hours after milking. Cooled milk may not be allowed to rise above a temperature of 50° F by subsequent addition of milk to the bulk tank and shall be cooled at 45° F or lower at time of pick-up, and not exceed 50° F upon delivery to the plant. Maximum time of delivery of milk to a milk plant may not exceed 72 hours of initial milking.

§ 59a.205. Milkhouse or milkroom.

(a) *General requirements.* A milkhouse or milkroom shall be provided for handling and cooling milk and for washing, handling and storing the utensils and equipment. The milkhouse or milkroom must be conveniently located and properly constructed, lighted and ventilated. Other products may not be handled in the milkroom which would be likely to contaminate milk, or otherwise create a public health hazard.

(b) *Equipment and construction.* The milkroom must be equipped with a wash and rinse vat, utensil rack, milk cooling facilities and an adequate supply of hot water available for cleaning milking equipment. If a part of the barn or other building, it must be partitioned, screened and sealed to prevent the entrance of dust, flies or other contamination. The floor of the building must be of concrete or other impervious material and graded to provide proper drainage. The walls and ceilings must be constructed of smooth easily cleaned material. Outside doors must open outward and be self-closing, unless they

are provided with tight-fitting screen doors that open outward or unless other effective means are provided to prevent the entrance of flies.

(c) *Farm bulk tanks.* If a farm bulk tank is used, the following requirements apply:

(1) The farm bulk tank shall be properly located in the milkhouse or milkroom for access to all areas for cleaning and servicing. It may not be located over a floor drain or under a ventilator.

(2) A small platform or slab constructed of concrete or other impervious material shall be provided outside the milkhouse, properly centered under a suitable port opening in the wall of the milkhouse. The opening shall be fitted with a tight, self-closing door. The truck approach to the milkhouse or milkroom must be properly graded and surfaced to prevent mud or pooling of water at the point of loading.

(d) *Trash, animals and fowl.* The milkhouse or milkroom and appurtenances shall be kept clean and free of trash, animals and fowl.

(e) *Farm chemicals and animal drugs.*

(1) Animal biologics and other drugs intended for treatment of animals, and insecticides approved for use in dairy operations, must be clearly labeled and used in accordance with label instructions, and stored in a manner which will prevent accidental contact with milk and milk contact surfaces.

(2) Only drugs that are approved by the FDA or biologics approved by the United States Department of Agriculture (USDA) for use in dairy animals that are properly labeled according to FDA or USDA regulations shall be administered to the animals.

(3) When drug storage is located in the milkroom, milkhouse or milking area, the drugs shall be stored in a closed, tight-fitting storage unit. The drugs shall further be segregated so that drugs labeled for use in lactating dairy animals are separated from drugs labeled for use in nonlactating dairy animals.

(4) Drugs labeled for use in nondairy animals may not be stored with drugs labeled for use in dairy animals. When drugs labeled for use in nondairy animals are stored in the barn, the drugs shall be located in an area of the barn separate from the milking area.

(5) Herbicides, fertilizers, pesticides and insecticides that are not approved for use in dairy operations may not be stored in the milkhouse, milkroom or milking area.

§ 59a.206. Utensils and equipment.

(a) *General requirements.* Utensils, milk cans, milking machines—including pipeline systems—rubber and rubber-like parts and other equipment used in the handling of milk shall be maintained in good condition, be free from rust, open seams, milkstone or any unsanitary condition, and shall be washed, rinsed and drained after each milking, stored in suitable facilities and sanitized immediately before use with a dairy equipment sanitizer that has been approved by the United States Environmental Protection Agency for use with dairy or food processing equipment, and that is used according to the label directions. New or replacement can lids must be umbrella type. New utensils and equipment must comply with applicable 3-A *Sanitary Standards*.

(b) *Farm bulk tanks.* Farm bulk tanks must meet 3-A *Sanitary Standards* for construction at the time of installation and be installed under § 59a.26 (relating to plans for construction and reconstruction).

(c) *Single service articles.* Single service articles shall be properly stored and may not be reused.

§ 59a.207. Water supply.

A dairy farm water supply shall be properly located, protected and operated, and shall be easily accessible, ample, and of safe, sanitary quality for the cleaning of dairy utensils and equipment. The water supply must come from a source which complies with the water supply provisions of the Grade “A” PMO, including Appendix D, regarding standards for water sources, and is approved by the Department.

§ 59a.208. Sewage disposal.

House, milkhouse or milkroom and toilet wastes shall be disposed of in a manner that does not pollute the soil surface, contaminate the water supply or be conducive to the breeding of insects.

Subchapter E. MANUFACTURING PLANTS GENERAL REQUIREMENTS

Sec.

- 59a.301. Premises.
- 59a.302. Buildings.
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SUPPLEMENTAL REQUIREMENTS FOR PLANTS MANUFACTURING, PROCESSING AND PACKAGING INSTANT NONFAT DRY MILK, NONFAT DRY MILK, DRY WHOLE MILK, DRY BUTTERMILK, DRY WHEY AND OTHER DRY MILK PRODUCTS

- 59a.321. Requirements for rooms and compartments.
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- 59a.346. Operations and operating procedures: Drying.
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SUPPLEMENTAL REQUIREMENTS FOR PLANTS MANUFACTURING, PROCESSING AND PACKAGING BUTTER AND RELATED PRODUCTS

- 59a.361. Rooms and compartments.
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SUPPLEMENTAL REQUIREMENTS FOR PLANTS MANUFACTURING AND PACKAGING CHEESE

- 59a.371. Rooms and compartments.
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SUPPLEMENTAL REQUIREMENTS FOR PLANTS MANUFACTURING, PROCESSING AND PACKAGING PASTEURIZED PROCESS CHEESE AND RELATED PRODUCTS

- 59a.381. Equipment and utensils.
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SUPPLEMENTAL REQUIREMENTS FOR PLANTS MANUFACTURING, PROCESSING AND PACKAGING EVAPORATED, CONDENSED OR STERILIZED MILK PRODUCTS

- 59a.391. Equipment and utensils.
 59a.392. Operations and operating procedures.

GENERAL REQUIREMENTS

§ 59a.301. Premises.

(a) *General.* The exterior premises of a manufacturing plant shall be kept in a clean and orderly condition, and be free from strong or foul odors, smoke or excessive air pollution. Construction and maintenance of driveways and adjacent plant traffic areas must be of concrete, asphalt or similar material to keep dust and mud to a minimum.

(b) *Surroundings.* The adjacent surroundings of a manufacturing plant must be free from refuse, rubbish and waste materials to prevent harborage of rodents, insects and other vermin.

(c) *Drainage.* A suitable drainage system shall be provided which will allow rapid drainage of all water from manufacturing plant buildings and driveways, including surface water around the plant and on the premises. The water shall be disposed of in a manner that prevents a nuisance or health hazard.

§ 59a.302. Buildings.

(a) *General.* Manufacturing plant buildings must be of sound construction and kept in good repair to prevent the entrance or harboring of rodents, birds, insects, vermin, dogs and cats. Service pipe openings through outside walls shall be effectively sealed around the opening or provided with tight metal collars.

(b) *Outside doors, windows and openings.* Openings to the outer air, including doors, windows, skylights and transoms, shall be effectively protected or screened against the entrance of flies and other insects, rodents, birds, dust and dirt. Outside doors opening into processing rooms must be in good condition and fit properly. Hinged, outside screen doors must open outward. Doors and windows shall be kept clean and in good repair. Outside conveyor openings and other special-type outside openings shall be effectively protected to prevent the entrance of flies and rodents, by the use of doors, screens,

flaps, fans or tunnels. Outside openings for sanitary pipelines shall be covered when not in use. On new construction, window sills should be slanted downward at a 45° angle.

(c) *Walls, ceilings, partitions and posts.* The walls, ceilings, partitions, posts of rooms in which milk or dairy products are processed, manufactured, handled, packaged or stored (except dry storage of packaged finished products and supplies) or in which utensils are washed and stored, must be smoothly finished with a suitable material of light color, which is substantially impervious to moisture and kept clean. They shall be refined as often as necessary to maintain a neat, clean surface.

(d) Floors.

(1) The floors of all rooms in which milk or dairy products are processed, manufactured, packaged or stored or in which utensils are washed must be constructed of tile properly laid with impervious joint material, concrete or other equally impervious material. The floors must be smooth, kept in good repair, graded so that there will be no pools of standing water or milk products after flushing, and the openings to the drains must be equipped with traps properly constructed and kept in good repair. On new construction, bell-type traps may not be used. The plumbing shall be installed to prevent the backup of sewage into the drain lines and to the floor of the plant.

(2) Sound, smooth wood floors which can be kept clean, may be used in rooms where new containers and supplies and certain packaged finished products are stored.

(e) *Lighting and ventilation.* Lighting and ventilation must comply with the following:

(1) Light must be ample, natural or artificial, or both, of good quality and well distributed. Rooms in which dairy products are manufactured or packaged or where utensils are washed must have at least 30 foot-candles of light intensity on all working surfaces and at least 50 foot-candles of light intensity in areas where dairy products are graded or examined for condition and quality. In other rooms, there must be at least 5 foot-candles of light intensity when measured at a distance of 30 inches from the floor. Where contamination of a product by broken glass is possible, light bulbs, fluorescent tubes, fixtures, skylight or other glass suspended over the product must be protected against breakage.

(2) There must be adequate heating, ventilation or air conditioning for all rooms and compartments to permit maintenance of sanitary conditions. Exhaust or inlet fans, vents, hoods or temperature and humidity control facilities shall be provided where and when needed to minimize or eliminate undesirable room temperatures, objectionable odors, moisture condensation or mold. Inlet fans shall be provided with an adequate air filtering device to eliminate dirt and dust from the incoming air. Ventilation systems shall be cleaned periodically as needed and maintained in good repair. Exhaust outlets must be screened or provided with self-closing louvers to prevent the entrance of insects when not in use.

(f) *Certain rooms and compartments.* Rooms and compartments in which raw material, packaging, ingredient supplies or dairy products are handled, manufactured, packaged or stored shall be designed, constructed and maintained to assure desirable room temperatures and clean and orderly operating conditions free from objectionable odors and vapors. Enclosed bulk milk receiving rooms must be separated from the processing rooms by a partition. Rooms for receiving can milk must be separated from the processing rooms by a partition—partial or

complete—by suitable arrangement of equipment or by allowing enough distance between receiving and processing operations to avoid possible contamination of milk or dairy products during manufacturing and handling. Processing rooms shall be kept free from equipment and materials not regularly used. Rooms and compartments must comply with the following:

(1) *Coolers and freezers.* Coolers and freezers where dairy products are stored must be clean, reasonably dry and maintained at the proper uniform temperature and humidity to adequately protect the product and minimize the growth of mold. Adequate circulation of air must be maintained at all times. Coolers and freezers must be free from rodents, insects and pests. Shelves shall be kept clean and dry. Refrigeration units must have provisions for collecting and disposing of condensate.

(2) *Supply room.* The supply rooms used for the storing of packaging materials, containers and miscellaneous ingredients shall be kept clean, dry, orderly, free from insects, rodents and mold and maintained in good repair. Items stored in supply rooms shall be adequately protected from dust, dirt or other extraneous matter and arranged on racks, shelves or pallets to permit access to the supplies and cleaning and inspection of the room. Insecticides, rodenticides, cleaning compounds and other nonfood products must be properly labeled and segregated, and stored in a separate room or cabinet away from milk, dairy products, ingredients or packaging supplies.

(3) *Boiler rooms, shop room and service areas.* The boiler rooms, shop room and service areas must be separated from other rooms where milk and dairy products are processed, manufactured, packaged, handled or stored. The rooms shall be kept orderly and reasonably free from dust and dirt.

(4) *Toilet and dressing rooms.* Adequate toilet and dressing rooms facilities must be conveniently located.

(i) Toilet rooms may not open directly into a room where milk or dairy products are processed, manufactured, packaged or stored. Doors must be self-closing. Ventilation must be provided by mechanical means or screened openings to the outer air. Fixtures shall be kept clean and in good repair.

(ii) Employees shall be furnished with a locker, or other suitable facility, and the lockers and dressing rooms shall be kept clean and orderly. Adequate handwashing facilities shall be provided and durable, legible signs shall be posted conspicuously in each toilet or dressing room directing employees to wash their hands before returning to work.

(5) *Laboratory.* The permitholder may establish its own laboratory to perform required tests on milk received as milk for manufacturing purposes. The laboratory shall be adequately equipped and maintained and be properly staffed with qualified, trained personnel and operate in accordance with the current *Evaluation of Milk Laboratories, Recommendations of the United States Public Health Service/Food and Drug Administration* and current FDA 2400 Laboratory Series forms. If the permitholder does not establish its own laboratory, an existing approved laboratory is acceptable if services are conveniently available so that samples and results can be transmitted without delay.

(6) *Starter facilities.* Adequate sanitary facilities shall be provided for the handling of starter cultures.

(7) *Lunch rooms and eating areas.* When eating areas are provided, they shall be kept clean and orderly and not

open directly into a room in which milk or dairy products are processed, manufactured or packaged. Signs shall be posted directing employees to wash their hands before returning to work.

§ 59a.303. Facilities.

(a) *Water supply.* There must be an ample supply of both hot and cold water of safe and sanitary quality, with adequate facilities for its proper distribution throughout the plant, and protection against contamination and pollution. Water from other facilities, when approved in writing by the Department, may be used for boiler feed water and condenser water provided that the waterlines are completely separated from the waterlines carrying the sanitary water supply, and the equipment is so constructed and controlled to preclude contamination of product contact surfaces. There may not be cross connection between the safe water supply and any unsafe or questionable water supply, or any other source of pollution through which contamination of the safe water supply is possible. Bacteriological examination shall be made of the sanitary water supply at least twice a year, or as often as necessary to determine purity and suitability for use in manufacturing dairy products. The tests shall be made in a laboratory that is approved by the Department. The results of all water tests shall be kept on file at the plant for which the test was performed.

(b) *Drinking water.* Sanitary drinking water facilities shall be provided in the plant and be conveniently located.

(c) *Hand-washing facilities.* Convenient hand-washing facilities shall be provided, including hot and cold running water, soap or other detergents, and sanitary single-service towels or air dryers. The accommodations must be located in or adjacent to toilet and dressing rooms and also at other places in the plant that may be essential to the cleanliness of all personnel handling products. Vats for washing equipment or utensils may not be used as handwashing facilities. Self-closing metal or plastic containers shall be provided for used towels and other wastes.

(d) *Steam.* Steam shall be supplied in sufficient volume and pressure for satisfactory operation of each applicable piece of equipment. Culinary steam used in direct contact with milk or dairy products must be free from harmful substances or extraneous material and only nontoxic boiler compounds shall be used, or a secondary steam generator shall be used in which soft water is converted to steam and no boiler compounds are used. Steam traps, strainers and condensate traps shall be used wherever applicable to insure a satisfactory and safe steam supply. Culinary steam must comply with the current *3-A Accepted Practices for a Method of Producing Culinary Steam*.

(e) *Air under pressure.* The method for supplying air under pressure which comes in contact with milk or dairy products or any product contact surface must comply with the current *3-A Accepted Practices for Supplying Air Under Pressure*. The air used at the point of application must be free from volatile substances, volatiles which may impart any flavor or odor to the products, and extraneous or harmful substances.

(f) *Dairy waste.* Dairy wastes shall be properly disposed of from the plant and premises. The sewer system must have sufficient slope and capacity to readily remove all waste from the various processing operations. When a public sewer is not available, wastes shall be properly disposed of so as not to contaminate milk equipment or to

create a nuisance or public health hazard. Containers used for the collection and holding of wastes shall be constructed of metal, plastic or other equally impervious material and kept covered with tight fitting lids and placed outside the plant on a concrete slab or on a rack raised at least 12 inches. Waste containers may be kept inside a suitably enclosed, clean and flyproof room. Solid wastes shall be disposed of regularly and the containers cleaned before reuse. Accumulation of dry wastepaper and cardboard shall be kept to a minimum.

§ 59a.304. Equipment and utensils.

(a) *General construction, repair and installation.*

(1) The equipment and utensils used for the processing of milk and manufacture of dairy products must be constructed to be readily demountable when necessary for cleaning and sanitizing. The product contact surfaces of all utensils and equipment such as holding tanks, pasteurizers, coolers, vats, agitators, pumps, sanitary piping and fittings or any specialized equipment must be constructed of stainless steel or other equally corrosion-resistant material. Nonmetallic parts other than glass having product contact surfaces must meet the current *3-A Standards for Multiple-Use Plastic Materials* or the current *3-A Sanitary Standards for Multiple-Use Rubber, and Rubber-Like Materials Used as Product Contact Surfaces in Dairy Equipment*.

(2) Equipment and piping shall be designed and installed to be easily accessible for cleaning, and be kept in good repair, free from cracks and corroded surfaces. New or rearranged equipment must be set away from any wall or spaced in a manner that facilitates proper cleaning and good housekeeping. Parts or interior surfaces of equipment, pipes (except certain piping cleaned in place) or fittings, including valves and connections, must be accessible for inspection.

(3) CIP systems must comply with the current *3-A Sanitary Practices for Permanently Installed Sanitary Product, Pipelines, and Cleaning Systems Used in Milk and Milk Processing Plants*.

(b) *Weigh cans and receiving tanks.* Weigh cans and receiving tanks must meet the general requirements of this section, be easily accessible for cleaning both inside and outside and elevated above the floor and protected sufficiently with the necessary covers or baffles to prevent contamination from splash, condensate and drippage. When necessary to provide easy access for cleaning of floors and adjacent wall areas, the receiving tank must be equipped with wheels or casters to allow easy removal.

(c) *Can washers.* Can washers must have sufficient capacity and ability to discharge a clean, dry can and cover and shall be kept properly timed in accordance with the instructions of the manufacturer. The water and steam lines supplying the washer must maintain a reasonably uniform pressure and if necessary be equipped with pressure regulating valves.

(d) *Product storage tanks or vats.* Storage tanks or vats must be fully enclosed or tightly covered and well insulated. The entire interior surface, agitator and all appurtenances must be accessible for thorough cleaning and inspection. Any opening at the top of the tank or vat including the entrance of the shaft must be suitably protected against the entrance of dust, moisture, insects, oil or grease. The sight glasses, if used, must be sound, clean and in good repair. Vats which have hinged covers must be designed so that moisture or dust on the surface cannot enter the vat when the covers are raised. If the storage tanks or vats are equipped with air agitation, the

system must be of an approved type and properly installed in accordance with the current *3-A Accepted Practices for Supplying Air Under Pressure*. Storage tanks or vats intended to hold product for longer than approximately 8 hours must be equipped with adequate refrigeration or have adequate insulation, or both. New storage tanks or vats must meet the appropriate *3-A Sanitary Standards* and be equipped with thermometers in good operating order.

(e) *Separators.* Product contact surfaces of separators must be free from rust and pits and insofar as practicable be of stainless steel or other equally noncorrosive metals. New separators must meet the current *3-A Sanitary Standards for Centrifugal Separators and Clarifiers*.

(f) *Coil or dome-type batch pasteurizers.* Coil or dome-type batch pasteurizers must be stainless steel lined and if the coil is not stainless steel or other equally noncorrosive metal it must be properly tinned over the entire surface. Sanitary seal assemblies at the shaft ends of coil vats must be of the removable type, except that existing equipment not provided with this type gland will be acceptable if the packing glands are maintained and operated without adverse effects. New or replacement units must be provided with removable packing glands. Dome-type pasteurizer agitators must be stainless steel except that any nonmetallic parts must meet the current *3-A Sanitary Standards for Plastic and Rubber or Rubber-Like Materials*, as applicable. Each pasteurizer used for heating product at 165° F or lower for 30 minutes or less must be equipped with space heating equipment and the necessary thermometers to insure a temperature at least 5° F above that required for pasteurization of the product. There must be adequate means of controlling the temperature of the heating medium. Batch pasteurizers must have temperature indicating and recording devices, and meet the current *3-A Sanitary Standards for Non-Coil Type Batch Pasteurizers*.

(g) *HTST pasteurizers.* When pasteurization is intended or required, an approved timing pump or device recorder-controller, automatic flow diversion valve and holding tube or its equivalent, if not a part of the existing equipment, shall be installed on all HTST equipment used for pasteurization, to assure complete pasteurization. The entire facility must meet the current *3-A Accepted Practices for the Sanitary Construction, Installation, Testing, and Operation of High-Temperature, Short-Time Pasteurizers*. After the HTST unit has been tested according to the *3-A Accepted Practices*, the timing pump or device and the recorder controller shall be sealed at the correct setting to assure pasteurization. Sealing of the HTST unit shall be performed by the control authority having jurisdiction. The HTST pasteurizer shall be tested initially upon installation, and whenever any alteration or replacement is made which affects the proper operation of the instrument or device. When direct steam pasteurizers are used, the steam, prior to entering the product, must be conducted through a steam strainer and a steam purifier equipped with a steam trap and only steam meeting the requirements for culinary steam shall be used.

(h) *Indicating thermometers.*

(1) Long-stem indicating thermometers which are accurate within 0.5° F, plus or minus, for the applicable temperature range, shall be provided for checking the temperature of pasteurization and cooling of products in vats and checking the accuracy of recording thermometers.

(2) Short-stem indicating thermometers, which are accurate within 0.5° F, plus or minus, for the applicable temperature range, shall be installed in the proper stationary position in all HTST and dome-type pasteurizers. Storage tanks where temperature readings are required must have thermometers which are accurate within 2.0° F, plus or minus.

(3) Air-space indicating thermometers, when applicable, which are accurate within 1.0° F, plus or minus, for the proper temperature range shall also be installed above the surface of the products pasteurized in vats, to make certain that the temperature of the foam or air above the products pasteurized, or both, also received the required minimum temperature treatment.

(i) *Recording thermometers.*

(1) HTST recording thermometers that are accurate within 1° F, plus or minus, for the applicable temperature range, shall be used on each heat treating, pasteurizing or sterilizing unit to record the heating process.

(2) Additional use of recording thermometers accurate within 2° F, plus or minus, may be required where a record of temperature or time of cooling and holding is of significant importance. A record of temperature or time of cooling and holding is of significant importance when made in accordance with §§ 59a.328, 59a.344, 59a.373(b), 59a.381(d), 59a.382(b) and 59a.392(b)(1).

(j) *Surface coolers.* Surface coolers must be equipped with hinged or removable covers for the protection of the product. The edges of the fins must be designed to divert condensate on nonproduct contact surfaces away from product contact surfaces. Gaskets or swivel connections must be leak proof.

(k) *Plate-type heat exchangers.* Plate-type heat exchangers must meet the current *3-A Sanitary Standards for Construction and Installation*. Gaskets must be tight and kept in good operating order. Plates shall be opened for inspection by the operator at sufficiently frequent intervals to determine if the equipment is clean and in satisfactory condition. A cleaning regimen shall be posted to insure proper cleaning procedures between inspection periods.

(l) *Internal return tubular heat exchangers.* Internal return tubular heat exchangers must meet the current *3-A Sanitary Standards for Construction and Installation*.

(m) *Pumps.* Pumps used for milk and dairy products must be of the sanitary type and constructed to meet *3-A Sanitary Standards*. Unless pumps are specifically designed for effective cleaning in place, they shall be disassembled and thoroughly cleaned after use.

(n) *Homogenizers.* Homogenizers and high pressure pumps of the plunger type must meet the *3-A Sanitary Standards*.

(o) *New equipment and replacements.* New equipment and replacements, including all plastic parts and rubber and rubber-like materials for parts and gaskets having product contact surfaces, must meet the current *3-A Sanitary Standards* or *3-A Accepted Practices*. If *3-A Sanitary Standards* or *3-A Accepted Practices* are not available, the equipment and replacements must meet the general requirements of this section.

(p) *Certain vacuum chambers.* A vacuum chamber, as used for flavor control, must be made of stainless steel or other equally noncorrosive metal. The unit must be constructed to facilitate cleaning and product contact surfaces must be accessible for inspection. The chamber

must be equipped with a vacuum breaker and a check valve at the product discharge line. Only steam which meets the requirements for culinary steam may be used. The incoming steam supply shall be regulated by an automatic solenoid valve which will cut off the steam supply in the event the flow diversion valve of the HTST pasteurizer is not in the forward flow position. Condensers when used must be equipped with a water level control and an automatic safety shutoff valve.

§ 59a.305. **Personnel cleanliness.**

Employees shall wash their hands before beginning work and upon returning to work after using toilet facilities, eating, smoking or otherwise soiling their hands. Employees shall keep their hands clean and follow good hygienic practices while on duty. Expectoration or use of tobacco in any form shall be prohibited in each room and compartment where any milk, dairy product or supplies are prepared, stored or otherwise handled. Clean white or light-colored washable outer garments, hair nets and adequate hair covering shall be worn by all persons engaged in receiving, testing, processing milk, manufacturing, packaging or handling dairy products.

§ 59a.306. **Personnel health.**

A person affected with any disease in a communicable form or while a carrier of the disease may not be permitted in any room or compartment where milk and dairy products are prepared, manufactured or otherwise handled. A person who has a discharging or infected wound, sore or lesion on hands, arms or other exposed portion of the body may not work in any dairy processing rooms or in any capacity resulting in contact with milk or dairy products. Each employee whose work brings him in contact with the processing or handling of dairy products, containers or equipment shall have a medical and physical examination by a registered physician or by the local department of health at the time of employment. In addition, an employee returning to work following illness from a communicable disease shall have a certificate from the attending physician to establish proof of complete recovery. Medical certificates attesting the fact that the employee when last examined was free from communicable disease shall be kept on file at the plant office.

§ 59a.307. **Protection and transport of raw milk and cream.**

(a) *Equipment and facilities.*

(1) *Milk cans.* Cans used in transporting milk from dairy farm to plant must be constructed to be easily cleaned, and shall be inspected, repaired and replaced as necessary to exclude substantially the use of cans and lids with open seams, cracks, rust, milkstone or any unsanitary condition.

(2) *Farm bulk tanks.* New farm bulk tanks must meet current *3-A Sanitary Standards* for construction and be installed in accordance with the requirements of the Grade "A" PMO.

(b) *Transporting milk or cream.*

(1) *Vehicles.* Vehicles used for the transportation of can milk or cream must be of the enclosed type, constructed and operated to protect the product from extreme temperature, dust or other adverse conditions and kept clean. Decking boards or racks shall be provided when more than one tier of cans is carried. Cans, or bulk tanks on vehicles, used for the transportation of milk from the farm to the plant may not be used for any other purpose.

(2) *Transport tanks.* The exterior shell of transport tanks must be clean and free from open seams or cracks

which would permit liquid to enter the jacket. The interior shell must be stainless steel and constructed so it will not buckle, sag or prevent complete drainage. Product contact surfaces must be smooth, easily cleaned and maintained in good repair. The pump and hose cabinet must be fully enclosed with tight fitting doors and the inlet and outlet must be provided with dust covers to give adequate protection from road dust. New and replacement transport tanks must meet the current *3-A Sanitary Standards for Stainless Steel Automotive Transportation Tanks for Bulk Delivery and/or Farm Pick-Up Service*.

(c) *Cleaning and sanitizing facilities.* Enclosed facilities shall be available for washing and sanitizing of transport tanks, piping and accessories, at central locations or at all plants that receive or ship milk or milk products in transport tanks.

(d) *Transfer of milk.* Milk shall be transferred under sanitary conditions from farm bulk tanks through stainless steel piping or approved tubing. The sanitary piping and tubing must be capped when not in use.

§ 59a.308. Raw product storage.

(a) *General.* Milk shall be held and processed under conditions and at temperatures that will avoid contamination and rapid deterioration. Drip milk from can washers or another source may not be used for the manufacture of dairy products. Bulk milk in storage tanks within the plant shall be handled to minimize bacterial increase and shall be maintained at 45° F or lower until processing begins. This does not preclude holding milk at higher temperatures for a period of time, when applicable to particular manufacturing or processing practices.

(b) *Bacteriological quality.* The bacteriological quality of commingled milk in storage tanks must be 1 million/ml or lower.

(c) *Sampling.* During any consecutive 6 months, at least four samples of commingled raw milk for processing will be taken by the Department, or a designated representative, from each plant. The designated representative shall be an approved sampler who is either an employee of the plant or an employee or representative of a Pennsylvania-approved dairy laboratory.

(d) *Testing of samples.* A laboratory test of the samples described in subsection (c) shall be performed at a Pennsylvania-approved dairy laboratory to determine the bacterial estimate.

(e) *Procedures if bacterial counts are high.* Whenever a bacterial estimate of commingled milk in a plant indicates the presence of more than 1 million per milliliter, the following procedures shall be applied:

(1) The Department will notify plant management with a warning of excessive bacterial estimate, and recommend that appropriate action be taken to eliminate the bacterial problem.

(2) Whenever two of the last four consecutive commingled milk bacterial estimates exceed 1 million per milliliter, the Department will notify plant management with a written warning notice. The notice will be in effect so long as two of the last four consecutive samples exceed 1 million per milliliter. Plant management should continue to work to eliminate the problem.

(3) An additional sample will be taken by the Department after a lapse of 3 days but within 21 days of the notice required in paragraph (1). If this sample also exceeds 1 million per milliliter, the Department may take action (such as permit suspension or acting to keep the

milk from the market place) until an additional sample of commingled milk is tested and found satisfactory. A temporary status may be assigned to the plant by the Department when an additional sample of commingled milk is tested and found in conformance with the 1,000,000-per-milliliter or lower bacterial classification standard for commingled raw milk for manufacturing. The plant will be assigned a full reinstatement status when three out of four consecutive commingled bacterial estimates do not exceed 1 million per milliliter. The samples will be taken at a rate of not more than two per week on separate days within a 3-week period.

(4) If a plant remains in temporary status in excess of 60 days, administrative procedures to suspend the plant's license will be taken by the Department until the plant complies with the bacteriological requirements.

(f) *Heat treated cream.* Heat treated cream is derived from the heating of raw milk, one time, to temperatures greater than 125° F but less than 161° F for separation purposes. When enzyme deactivation is necessary for a functional reason, the cream may be further heated to less than 166° F in a continuing heating process. The resulting bulk shipment of cream shall be cooled to 45° F or less, and labeled as heat treated with bacterial limits of 20,000 per ml or gm for dairy products which are weighed.

§ 59a.309. Pasteurized, ultrapasteurized or aseptically processed and packaged products.

Pasteurized, ultrapasteurized or aseptically processed and packaged products must conform with § 59a.2 (relating to definitions). When pasteurization or sterilization is intended or required, or when a product is designated "pasteurized" or "sterilized," every particle of the product shall be subjected to temperatures and holding periods that assure proper pasteurization or sterilization of the product. The heat treatment by either process must be sufficient to insure public health safety and to assure adequate keeping quality, yet retaining the most desirable flavor and body characteristics of the finished product. The phenol value of test samples of pasteurized finished product may be no greater than the maximum specified for the particular product as determined and specified by the phosphatase test method prescribed in the latest edition of "Official Methods of Analysis of the Association of Official Agricultural Chemists" (a publication of the Association of Official Analytical Chemists International, 481 North Frederick Avenue, Suite 500, Gaithersburg, MD 20877-2417).

§ 59a.310. Composition and wholesomeness.

Necessary precautions shall be taken to prevent contamination or adulteration of the milk or dairy products during manufacturing. Substances and ingredients used in the processing or manufacturing of a dairy product will be subject to inspection and must be wholesome and practically free from impurities. The finished product must comply with the Food, Drug, and Cosmetic Act (21 U.S.C.A. §§ 301—399a) and applicable Commonwealth statutes as to their composition and wholesomeness.

§ 59a.311. Cleaning and sanitizing treatment.

(a) *Equipment and utensils.*

(1) The equipment, sanitary piping and utensils used in receiving and processing of the milk, and manufacturing and handling of the product shall be maintained in a sanitary condition. Sanitary seal assemblies must be removable on all agitators, pumps and vats, and shall be inspected at regular intervals and kept clean. Unless

other provisions are recommended in the following supplemental sections, equipment not designed for CIP cleaning shall be disassembled after each day of use for thorough cleaning. Cleaning and sanitizing chemicals that are utilized for this cleaning must be labeled and shall be used in accordance with label directions. Steel wool or metal sponges may not be used in the cleaning of any dairy equipment or utensils. Utensils and portable equipment used in processing and manufacturing operations shall be stored above the floor in clean, dry locations and in a self draining position on racks constructed of impervious corrosion resistant material. All product contact surfaces shall be subjected to an effective sanitizing treatment immediately prior to use, except when dry cleaning is permitted. This sanitizing treatment shall entail subjection of a clean surface to steam, hot water, hot air, or an acceptable sanitizing solution for the destruction of most human pathogens and other vegetative microorganisms to a level considered safe for product production, without adversely affecting the equipment, the milk, the milk product or the health of consumers. Sanitizing solutions must comply with 21 CFR 178.1010 (relating to sanitizing solutions).

(2) CIP cleaning, including sprayball systems, shall be used only on equipment and pipeline systems which have been designed and engineered for that purpose. When that cleaning is used, careful attention shall be given to the proper procedures to assure satisfactory cleaning. CIP installations and cleaning procedures shall be in accordance with the current *3-A Accepted Practices for Permanently Installed Product and Solution Pipelines and Cleaning Systems Used in Milk and Milk Product Processing Plants*. The established cleaning procedure shall be posted and followed. Following the circulation of the cleaning solution, the equipment and lines shall be thoroughly rinsed and checked for effectiveness of cleaning. Caps, plugs, special fittings, valve seats, cross ends and tee ends shall be opened or removed and brushed clean. Immediately prior to starting the product flow, the product contact surfaces shall be properly sanitized.

(b) *Milk cans and can washers*. Milk cans and can washers must meet the following requirements:

(1) Milk cans and lids shall be cleaned, sanitized and dried before they are returned to producers. Inspection, repair or replacement of cans and lids shall be adequate to substantially exclude from use cans and lids showing open seams, cracks, rust condition, milkstone or an unsanitary condition.

(2) Washers shall be maintained in a clean and satisfactory operating condition and kept free from accumulation of scale or debris which will adversely affect the efficiency of the washer.

(c) *Transport tanks*. An enclosed wash dock and cleaning and sanitizing facilities shall be available to all plants that receive or ship milk in tanks. Milk transport tanks, sanitary piping, fittings and pumps shall be cleaned and sanitized at least once each day, after use. If milk transport tanks, sanitary piping, fittings or pumps are not to be used immediately after emptying a load of milk, they shall be washed promptly after use and given bactericidal treatment immediately before use. The following provisions also apply:

(1) A milk transport tank shall be cleaned and sanitized at least once each day after use.

(2) If a milk transport tank has been cleaned and sanitized in accordance with paragraph (1) and 96 hours or more have elapsed from that cleaning and sanitizing

without the tank being used, the tank shall be cleaned and sanitized again before use.

(3) When a milk transport tank has been cleaned and sanitized, it must bear a tag or be accompanied by a written document showing the date, time and place of cleaning and sanitizing and bear the signature or initials of the person who performed the cleaning and sanitizing. This tagging or written document requirement is not applicable if the milk transport tank delivers to only one receiving facility and that receiving facility is solely responsible for cleaning and sanitizing and retains records at that receiving facility to confirm date, time and place of cleaning.

(4) A tag or written document as described in paragraph (3) shall be removed at the location where the milk tank truck is next cleaned and sanitized and retained on file at that location for 15 days.

(d) *Buildings*. Windows, glass, partitions and skylights shall be washed as often as necessary to keep them clean. Cracked or broken glass shall be replaced promptly. The walls, ceilings and doors shall be washed periodically and kept free from soil and unsightly conditions. The shelves and ledges shall be wiped or vacuumed as often as necessary to keep them free from dust and debris. The material picked up by the vacuum cleaners shall be disposed of by burning or other proper methods to destroy any insects that might be present.

§ 59a.312. Insect and rodent control program.

In addition to any commercial pest control service, if one is utilized, a specifically designated employee shall be made responsible for the performance of a regularly scheduled insect and rodent control program. Poisonous substances, insecticides and rodenticides must be properly labeled, and shall be handled, stored and used so that they do not create a public health hazard.

§ 59a.313. Plant records.

A milk plant shall retain adequate records of required tests on raw milk receipts. Records shall be available for examination at reasonable times by the Department. The following records shall be maintained for examination at the plant or receiving station where performed:

(1) Sediment, drug residue and bacterial test results on raw milk from each producer: retain for 12 months.

(i) Routine tests and monthly summary of all producers showing number and percent of total in each class.

(ii) Retests, if initial test places milk in probationary status.

(iii) Rejection of raw milk over No. 3 in quality.

(2) Positive drug residue tests: retain for 12 months.

(3) Pasteurization recorder charts: retain for 6 months.

(4) Water test reports: retain copies for 6 months.

(5) Employee health certificate: retain most recent copy until employee is no longer employed by plant.

(6) Drug residue test results for milk samples that do not test positive: retain for 6 months.

§ 59a.314. Packaging and general identification.

(a) *Containers*. Containers must meet the following standards:

(1) The size, style and type of packaging used for manufactured dairy products shall be commercially acceptable containers and packaging materials which satis-

factorily cover and protect the quality of the contents during storage and regular channels of trade and under normal conditions of handling. The weights and shape within each size and style shall be as nearly uniform as is practical.

(2) Packaging materials for dairy products shall be selected which provide sufficiently low permeability to air and vapor to prevent the formation of mold growth and surface oxidation. The wrapper must be resistant to puncturing, tearing, cracking or breaking under normal conditions of handling, shipping and storage. When special type packaging is used, the instructions of the manufacturers shall be followed closely as to its application and methods of closure.

(b) *Packaging and repackaging.* Packaging dairy products or cutting and repackaging dairy products require a high level of sanitation to prevent the contamination of exposed product. The atmosphere of the packaging rooms, the equipment and packaging material must be practically free from mold and bacterial contamination. The method for checking the level of contamination shall be as prescribed by the *Standard Methods for the Examination of Dairy Products*.

(c) *General identification.* Commercial bulk packages containing dairy products manufactured under this subchapter must be adequately and legibly marked with the name of the product, net weight, name and address of processor or manufacturer or other assigned plant identification, lot number and other identification that may be required. Consumer packaged products must be legibly marked with the name of the product, net weight, name and address of packer, manufacturer or distributor and other identification required by the Department.

§ 59a.315. Storage of finished product.

(a) *Dry storage.* The finished product must be stored at least 18 inches from the wall in aisles, rows or sections and lots, so it is orderly and easily accessible for inspection. Rooms shall be cleaned regularly. Care shall be taken in the storage of products foreign to dairy products in the same room, to prevent impairment or damage to the dairy product from mold, absorbed odors, vermin or insect infestation. Control of humidity and temperature shall be maintained at all times, consistent with good commercial practices, to prevent conditions detrimental to the product and container.

(b) *Refrigerated storage.* The finished product must be placed on shelves, dunnage or pallets and properly identified. It must be stored under temperatures that will best maintain the initial quality. The product may not be exposed to anything from which it might absorb foreign odors or be contaminated by drippage or condensation.

§ 59a.316. Permits.

Plant permitting requires compliance with the applicable requirements in this subchapter.

SUPPLEMENTAL REQUIREMENTS FOR PLANTS MANUFACTURING, PROCESSING AND PACKAGING INSTANT NONFAT DRY MILK, NONFAT DRY MILK, DRY WHOLE MILK, DRY BUTTERMILK, DRY WHEY AND OTHER DRY MILK PRODUCTS

§ 59a.321. Requirements for rooms and compartments.

Rooms and compartments must conform to § 59a.302(f) (relating to buildings).

§ 59a.322. Dry storage.

(a) *General requirement.* Dry storage of instant nonfat dry milk, nonfat dry milk, dry whole milk, dry buttermilk, dry whey and other dry milk products must conform with § 59a.315 (relating to storage of finished product).

(b) *Storage rooms.* Storage rooms for the dry storage of product must be adequate in size, kept clean, orderly, free from rodents, insects and mold, and maintained in good repair. The rooms must be adequately lighted and ventilated. The ceilings, walls, beams and floors shall be free from structural defects and inaccessible false areas which may harbor insects.

§ 59a.323. Packaging room for bulk products.

A separate room or area shall be provided for filling bulk bins, drums, bags or other bulk containers and be constructed to conform to § 59a.302 (relating to buildings). The number of control panels and switchboxes in this area shall be kept to a minimum. Control panels must be mounted a sufficient distance from the walls to facilitate cleaning or be mounted in the wall and provided with tight-fitting removable doors to facilitate cleaning. An adequate exhaust system shall be provided to minimize the accumulation of product dust within the packaging room and, where needed, a dust collector shall be provided and properly maintained to keep roofs and outside areas free of dry product. Only packaging materials that are used within a day's operation may be kept in the packaging area. These materials shall be kept on metal racks or tables at least 6 inches off the floor. Unnecessary fixtures, equipment or false areas which may collect dust and harbor insects, may not be allowed in the packaging room.

§ 59a.324. Hopper or dump room.

A separate room shall be provided for the transfer of bulk dry dairy products from bags or drums to the hoppers and conveyors which lead to the fillers. The room must meet the same requirements for construction and facilities as the bulk packaging operation. Areas and facilities providing for the transfer of dry dairy products from portable bulk bins will be acceptable if gasketed surfaces or direct connections are used that essentially eliminate the escape of product into the area.

§ 59a.325. Repackaging room.

A separate room shall be provided for the filling of small packages and must meet the same requirements for construction and facilities as the bulk packaging operation.

§ 59a.326. Equipment and utensils.

Equipment and utensils must conform with § 59a.304 (relating to equipment and utensils). Additional, more specific requirements are applicable to the items of equipment listed in §§ 59a.327—59a.341.

§ 59a.327. Preheaters.

Preheaters must be of stainless steel or other equally corrosion-resistant material, cleanable, accessible for inspection and equipped with suitable automatic temperature controls.

§ 59a.328. Hotwells.

Hotwells must be enclosed or covered and equipped with indicating thermometers either in the hotwell or in the hot milk inlet line to the hotwell and if used for holding high heat products must also have recorders.

§ 59a.329. Evaporators or vacuum pans, or both.

Open-type evaporators or vacuum pans, or both, must be equipped with an automatic condenser water level control, barometric leg, or constructed to prevent water from entering the product, and meet the applicable 3-A *Sanitary Standards*. When enclosed-type condensers are used, special controls are not needed to prevent water from entering the product.

§ 59a.330. Surge tanks.

If surge tanks are used for hot milk and temperatures of products including foam being held in the surge tank during processing is not maintained at a minimum of 150° F, two or more surge tanks shall be installed with cross connections to permit flushing and cleaning during operation. Covers easily removable for cleaning shall be provided and used at all times.

§ 59a.331. High pressure pumps and lines.

High pressure lines may be cleaned in place and must be constructed so that deadends, valves and the high pressure pumps can be disassembled for hand cleaning. New high pressure pumps must meet the current 3-A *Sanitary Standard Covering Homogenizers and High Pressure Pumps of the Plunger Type*.

§ 59a.332. Dryers.

(a) *Spray dryers.* Spray dryers must conform to the current 3-A *Accepted Practices for Spray Drying Systems*. The filtering system shall be cleaned or component parts replaced as often as necessary to maintain a clean and adequate air supply. In gas-fired dryers, precautions shall be taken to assure complete combustion. Air must be drawn into the dryer from sources free from objectionable odors and smoke, dust or dirt.

(b) *Roller dryers.* Roller dryers must comply with the following:

(1) The drums of a roller dryer must be smooth, readily cleanable and free of pits and rusts. The knives shall be maintained in a condition so they do not cause scoring of the drums.

(2) The end boards must have an impervious surface and be readily cleanable. The end boards shall be provided with a means of adjustment to prevent leakage and accumulation of milk solids. The stack, hood, drip pan inside of the hood and related shields must be constructed of stainless steel and be readily cleanable. The lower edge of the hood must be constructed to prevent condensate from entering the product zone. The hood must be properly located and the stack of adequate capacity to remove the vapors. The stack must be closed when the dryer is not in operation. The augers must be of stainless steel or properly plated and be readily cleanable. The auger troughs and related shields must be of stainless steel and be readily cleanable. Air entering the dryer room shall be filtered to eliminate dust and dirt. The filter system must consist of a filtering media or device that will effectively, and in accordance with good commercial practices, prevent the entrance of foreign substances into the drying room. The filtering system must be cleaned or component parts replaced as often as necessary to maintain a clean and adequate air supply. Dryer adjustments must be made and the dryer operating normally before food grade powder can be collected from the dryer.

§ 59a.333. Collectors and conveyors.

Collectors must be made of stainless steel or equally noncorrosive material and constructed to facilitate clean-

ing and inspection. Filter sack collectors, if used, must comply with the current 3-A *Sanitary Standards for Bag Collectors*. Conveyors must comply with the current 3-A *Sanitary Standards for Pneumatic Conveyors for Dry Milk and Dry Milk Products* or the current 3-A *Sanitary Standards for Mechanical Conveyors for Dry Products*.

§ 59a.334. Dry dairy product cooling equipment.

Cooling equipment shall be provided with sufficient capacity to cool the products to 110° F or lower immediately after removal from dryer and prior to packaging. If bulk bins are used, the product should be cooled to approximately 90° F, but may not be more than 110° F. A suitable dry air supply with effective filtering shall be provided where air cooling and conveying is used.

§ 59a.335. Special treatment equipment.

Special equipment, such as flakers, pulverizers or hammer mills, used to further process dry milk products must be of sanitary construction and parts must be accessible for cleaning and inspection. Instantizing systems must comply with the current 3-A *Accepted Practices for Instantizing Systems*.

§ 59a.336. Sifters.

Newly installed sifters used for dry milk and dry milk products must meet the current 3-A *Sanitary Standards for Sifters for Dry Products*. Other sifters must be constructed of stainless steel or other equally noncorrosive material and must be of sanitary construction and accessible for cleaning and inspection. The mesh size of sifter screen used for various dry dairy products must be those recommended in the appendix of the referenced 3-A *Sanitary Standard*.

§ 59a.337. Portable and stationary bulk bins.

Bulk bins must be constructed of stainless steel, aluminum or other equally corrosion-resistant materials, free from cracks and seams and have an interior surface that is relatively smooth and easily cleanable. Product contact surfaces must be easily accessible for cleaning. Portable bins must comply with the current 3-A *Sanitary Standards for Portable Bins for Dry Milk and Dry Milk Products*.

§ 59a.338. Automatic sampling device.

When automatic sampling devices are used, they must be constructed to prevent contamination of the product, and parts must be readily accessible for cleaning.

§ 59a.339. Dump hoppers, screens and mixers.

The product contact surfaces of dump hoppers, screens and mixers which are used in the process of transferring dry products from bulk containers to fillers for small packages or containers must be of stainless steel or equally corrosion resistant material and designed to prevent contamination. Parts must be accessible for cleaning. The dump hoppers must be of a height above floor level to prevent foreign material or spilled product from entering the hopper.

§ 59a.340. Filler and packaging equipment.

Filling and packaging equipment must comply with the current 3-A *Sanitary Standards for Equipment for Packaging Dry Milk and Dry Milk Products*.

§ 59a.341. Heavy duty vacuum cleaners.

Each plant handling dry milk products must be equipped with a heavy duty industrial vacuum cleaner. Regular scheduling shall be established for its use in vacuuming applicable areas.

§ 59a.342. Clothing and shoe covers.

Clean clothing and shoe covers must be provided exclusively for the purpose of cleaning the interior of the dryer when it is necessary to enter the dryer to perform the cleaning operation.

§ 59a.343. Operations and operating procedures: Pasteurization.

(a) *Pasteurization.* Milk, buttermilk and whey used in the manufacture of dry dairy products shall be pasteurized at the plant where dried, except that condensed whey and acidified buttermilk containing 40% or more solids may be transported to another plant for drying without repasteurization. Milk or skim milk to be used in the manufacture of nonfat dry milk shall be heated prior to condensing to at least the minimum pasteurization temperature of 161° F for at least 15 seconds or its equivalent in bacterial destruction. Condensed skim made from pasteurized skim milk may be transported to a drying plant. The skim shall be effectively repasteurized at the drying plant, prior to drying, at a minimum temperature of 166° F for at least 15 seconds or its equivalent.

(b) *Buttermilk.* Buttermilk shall be pasteurized prior to condensing at a temperature of 161° F for 15 seconds or its equivalent in bacterial destruction.

(c) *Cheese whey.* Cheese whey or milk from which it is derived shall be pasteurized prior to condensing at a temperature of 161° F for 15 seconds or its equivalent in bacterial destruction.

(d) *Cream derived from buttermilk.* Cream derived from buttermilk shall be pasteurized prior to condensing at a temperature of 166° F for 15 seconds or its equivalent in bacterial destruction.

§ 59a.344. Operations and operating procedures: Condensed surge supply.

Surge tanks or balance tanks if used between the evaporators and dryer shall be used to hold the minimum amount of condensed product necessary for a uniform flow to the dryers. The tanks holding products at temperatures below 150° F shall be completely emptied and washed after each 4 hours of operation or less. Alternate tanks shall be provided to permit continuous operation during washing of tanks.

§ 59a.345. Operations and operating procedures: Condensed storage tanks.

(a) *Excess production.* Excess production of condensed products over that which the dryer will take continuously from the evaporator or pans should be by-passed through a cooler into a storage tank at 50° F or lower and held at this temperature until used.

(b) *Regular cleaning and sanitizing.* Product cut-off points shall be made at least every 24 hours and the tank completely emptied, washed and sanitized before reuse.

§ 59a.346. Operations and operating procedures: Drying.

Each dryer shall be operated at not more than the manufacturer's rated capacity for the highest quality dry product consistent with the most efficient operation. This does not preclude the remodeling or redesigning of dryers after installation when properly engineered and designed. The dry products shall be removed from the drying chamber continuously during the drying process.

§ 59a.347. Operations and operating procedures: Cooling dry products.

Prior to packaging and immediately following removal from the drying chamber, the dry product shall be cooled to a temperature not exceeding 110° F.

§ 59a.348. Operations and operating procedures: Packaging, repackaging and storage.

(a) *Containers.* Packages or containers used for the packaging of nonfat dry milk or other dry milk products must be any clean, sound, commercially accepted container or packaging material which satisfactorily protects the contents through the regular channels of trade, without significant impairment of quality with respect to flavor, wholesomeness or moisture content under the normal conditions of handling. Packages or containers that comply with 21 CFR 177.1520 (relating to olefin polymers) are among the packages that meet the requirements of this subsection. Containers which have previously been used for nonfood items or food which would be deleterious to the dairy product may not be used for the bulk handling of dairy products.

(b) *Filling.* Empty containers shall be protected from possible contamination and containers which are to be lined may not be prepared more than 1 hour in advance of filling. Every precaution shall be taken during the filling operation to minimize product dust and spillage. When necessary, a mechanical shaker shall be provided. The tapping or pounding of containers shall be prohibited. The containers shall be closed immediately after filling and the exteriors shall be vacuumed or brushed when necessary to render them practically free of product remnants before being transferred from the filling room to the palleting or dry storage areas.

(c) *Repackaging.* The entire repackaging operation shall be conducted in a sanitary manner with all precautions taken to prevent contamination and to minimize dust. Exterior surfaces of individual containers must be practically free of product before overwrapping or packing in shipping containers. The flow shall be kept free of dust accumulation, waste, cartons, liners or other refuse. Conveyors, packaging and carton making equipment shall be vacuumed frequently during the operating day to prevent the accumulation of dust. Bottles or glass materials may not be permitted in the repackaging or hopper room. The inlet openings of hoppers and bins must be of minimum size, screened and placed well above the floor level. The room and all packaging equipment shall be cleaned as often as necessary to maintain a sanitary operation. Close attention shall be given to cleaning points of equipment where residues of the dry product may accumulate. A thorough clean-up, including windows, doors, walls, light fixtures and ledges, shall be performed as frequently as is necessary to maintain a high standard of cleanliness and sanitation. Waste dry dairy products including dribble product at the fillers shall be properly identified and disposed of as animal feed.

(d) *Storage.* Storage shall be as follows:

(1) *Product.* The packaged dry milk product must be stored or arranged in aisles, rows or sections and lots at least 18 inches from a wall and in an orderly, easily accessible manner for inspection or for cleaning of the room. Bags and small containers of products must be placed on pallets elevated approximately 6 inches from the floor. The storage room shall be kept clean and dry and all openings protected against entrance of insects and rodents.

(2) *Supplies.* Supplies must be placed on dunnage or pallets and arranged in an orderly manner for accessibility and cleaning of the room. Supplies must be kept enclosed in their original wrapping material until used. After removal of supplies from their original containers, they must be kept in an enclosed metal cabinet, bins or on shelving, and if not enclosed shall be protected from powder and dust or other contamination. The room shall be vacuumed as often as necessary and kept clean and orderly.

§ 59a.349. Operations and operating procedures: Product adulteration.

Necessary precautions shall be taken throughout the entire operation to prevent the adulteration of one product with another. The commingling of one type of liquid or dry product with another shall be considered as an adulteration of the product. This does not prohibit the normal standardization of like products in accordance with good commercial practices or the production of specific products for special uses, if applicable labeling requirements are met.

§ 59a.350. Operations and operating procedures: Checking quality.

Milk, manufactured dairy products and dry milk products shall be subject to inspection and analysis by the plant for quality and condition throughout each processing operation. Line samples shall be taken periodically as an aid to quality control in addition to the regular routine analysis made on the finished products.

§ 59a.351. Operations and operating procedures: Requirements for instant nonfat dry milk.

(a) *Sampling and testing.* Instant nonfat dry milk offered for sale shall be sampled and tested by an approved laboratory at least once each month for the purpose of assuring that the product meets the requirements of subsection (b). The dry milk plant shall have each subplot of approximately 4,000 pounds tested and analyzed prior to being packaged or offered for sale. Products which do not meet the requirements of subsection (b) may not be offered as Extra Grade.

(b) *Requirements for Extra Grade instant nonfat dry milk.* Requirements are as follows:

(1) *Flavor and odor.* The flavor and odor must be sweet, pleasing and desirable but may possess the following flavors to a slight degree: chalky, cooked, feed or flat.

(2) *Physical appearance.* The physical appearance must possess a uniform white to light cream natural color and be reasonably free-flowing and free from lumps except those that readily break up with very slight pressure.

(3) *Bacterial estimate.* The standard plate count may not be more than 10,000 per gram.

(4) *Coliform count.* The coliform count may not be more than 10 per gram.

(5) *Milkfat content.* The milkfat may not be more than 1.25%.

(6) *Moisture count.* The moisture may not be more than 4.5%.

(7) *Scorched particle content.* Scorched particles may not be more than 15 mg.

(8) *Solubility index.* The solubility index may not be more than 1 milliliter.

(9) *Titrateable acidity.* The titrateable acidity may not be more than 0.15%.

(10) *Dispersibility.* The dispersibility may not be less than 85% by the Modified Moats-Dabbah Method, as recommended by the United States Department of Agriculture.

(11) *Direct microscopic clump count.* The direct microscopic clump count may not be more than 40 million per gram.

(12) *USDA grading.* The product must be graded as Extra Grade instant nonfat dry milk by the Dairy Grading Branch, United States Department of Agriculture.

§ 59a.352. Operations and operating procedures: Cleaning of dryers, conveyors, sifters and storage bins.

Dryers, conveyors, sifters and storage bins shall be cleaned as often as necessary to maintain the equipment in a clean and sanitary condition. The kind of cleaning procedure—either wet or dry—and the frequency of cleaning, shall be based upon observation of actual operating results and conditions.

§ 59a.353. Operations and operating procedures: Insect and rodent control program.

In addition to any commercial pest control service, if one is utilized, a specifically designated employee shall be made responsible for the performance of a regularly scheduled insect and rodent control program.

SUPPLEMENTAL REQUIREMENTS FOR PLANTS MANUFACTURING, PROCESSING AND PACKAGING BUTTER AND RELATED PRODUCTS

§ 59a.361. Rooms and compartments.

(a) *Coolers and freezers.* The coolers and freezers must be equipped with facilities for maintaining proper temperature and humidity conditions, to protect the quality and condition of the products during storage or during tempering prior to further processing. Coolers and freezers shall be kept clean, orderly, free from insects, rodents and mold, and maintained in good repair. They must be adequately lighted and proper circulation of air shall be maintained at all times. The floors, walls and ceilings must be of a construction that permits thorough cleaning.

(b) *Churn rooms.* Churn rooms, in addition to proper construction and sanitation, must be equipped so the air is kept free from objectionable odors and vapors and extreme temperatures by means of adequate ventilation and exhaust systems or air conditioning and heating facilities.

(c) *Print and bulk packaging rooms.* Rooms used for packaging print or bulk butter and related products must, in addition to proper construction and sanitation, provide an atmosphere relatively free from mold (no more than 10 mold colonies per cubic foot of air), dust or other airborne contamination and be maintained at a reasonable room temperature.

§ 59a.362. Equipment and utensils.

(a) *General construction, repair and installation.* Equipment and utensils necessary to the manufacture of butter and related products must meet requirements in § 59a.304 (relating to equipment and utensils).

(b) *Continuous churn.* Product contact surfaces must be of noncorrosive material. Nonmetallic product contact surfaces must comply with the current 3-A Standards for Multiple-Use Plastic Materials or the current 3-A Sanitary Standards for Multiple-Use Rubber, and Rubber-Like

Materials. Product contact surfaces must be readily accessible for cleaning and inspection.

(c) *Conventional churn.* Churns must be constructed of aluminum, stainless steel or equally corrosion resistant metal, free from cracks and in good repair. Gasket material must be fat resistant, nontoxic and reasonably durable. Seals around the doors must be tight.

(d) *Bulk butter trucks, boats and packers.* Bulk butter trucks, boats and packers must be constructed of aluminum, stainless steel or equally corrosion resistant metal free from cracks, seams and have a surface that is relatively smooth and easily cleanable.

(e) *Butter, frozen or plastic cream melting machines.* Shavers, shredders or melting machines used for rapid melting of butter, frozen or plastic cream must be of stainless steel or equally corrosion resistant metal, sanitary construction and easily cleanable.

(f) *Printing equipment.* Printing equipment must comply with the current *3-A Sanitary Standards for Equipment for Packaging Viscous Products*.

(g) *Brine tanks.* Brine tanks used for the treating of parchment liners must be constructed of noncorrosive material and have an adequate and safe means of heating the salt solution for the treatment of the liners. The tank must also be provided with a satisfactory drainage outlet.

(h) *Starter vats.* Bulk starter vats must be of stainless steel or equally corrosion resistant metal and constructed according to applicable *3-A Sanitary Standards*. The vats must be in good repair, equipped with tight-fitting lids and have effective temperature controls.

§ 59a.363. Operations and operating procedures.

(a) *Pasteurization.* The milk or cream shall be pasteurized at the plant where the milk or cream is processed into the finished product.

(1) *Cream for buttermaking.* Requirements are as follows:

(i) The cream for buttermaking shall be pasteurized at a temperature of at least 165° F and held continuously in a vat at that temperature at least 30 minutes, pasteurized by the HTST method at a minimum time and temperature of at least 185° F for at least 15 seconds or by another equivalent time and temperature combination that is approved by the Department. Additional heat treatment above the minimum pasteurization requirement is advisable to insure improved keeping quality characteristics.

(ii) Adequate pasteurization control shall be used and the diversion valve shall be set to divert at less than 185° F with a 15 second holding time or its equivalent in time and temperature to assure pasteurization. If the vat or holding method of pasteurization is used, vat covers shall be closed prior to the holding period to assure temperature of air space reaching the minimum temperature before holding time starts. Covers shall also be kept closed during the holding and cooling period.

(2) *Cream for plastic or frozen cream.* The pasteurization of cream for plastic or frozen cream shall be accomplished in the same manner as in paragraph (1)(i) except that the temperature for the vat method shall be at least 170° F for at least 30 minutes, at least 190° F for at least 15 seconds or by another temperature and holding time which will assure adequate pasteurization and comparable keeping quality characteristics.

(b) *Composition and wholesomeness.* Ingredients used in the manufacture of butter and related products shall

be subject to inspection and must be wholesome and practically free from impurities. Chlorinating facilities shall be provided for butter wash water if needed and other necessary precautions shall be taken to prevent contamination of products. Finished products must comply with the Food, Drug, and Cosmetic Act (21 U.S.C.A. §§ 301—399a), as to composition and wholesomeness.

(c) *Containers.* Containers must comply with the following:

(1) Containers used for the packaging of butter and related products must satisfactorily protect the quality of the contents in regular channels of trade. Caps or covers which extend over the lip of the container shall be used on all cups or tubs containing 2 pounds or less to protect the product from contamination during subsequent handling.

(2) Liners and wrappers must comply with the following:

(i) Supplies of parchment liners, wrappers and other packaging material must be protected against dust, mold and other possible contamination.

(ii) Prior to use, parchment liners for bulk butter packages shall be completely immersed in a boiling salt solution in a suitable container constructed of stainless steel or other equally noncorrosive material. The liners shall be maintained in the solution for at least 30 minutes. The solution must consist of at least 15 pounds of salt for every 85 pounds of water and shall be strengthened or changed as frequently as necessary to keep the solution full strength and in good condition.

(iii) Other liners, such as polyethylene, shall be treated or handled to prevent contamination of the liner prior to filling.

(3) The lined butter containers shall be protected from possible contamination prior to filling.

(d) *Printing and packaging.* Printing and packaging of consumer size containers of butter shall be conducted under sanitary conditions.

(e) *General identification.* Commercial bulk shipping containers must be legibly marked with the name of the product, net weight, name and address of manufacturer, processor or distributor or other assigned plant identification—manufacturer's lot number, churn number, and the like—and other identification that may be required. Packages of plastic or frozen cream must be marked with the percent of milkfat.

(f) *Storage of finished product in coolers.* Products must be kept under refrigeration at temperatures of 40° F or lower after packaging and until ready for distribution or shipment. The products may not be placed directly on floors or exposed to foreign odors or conditions such as drippage due to condensation which might cause package or product damage.

(g) *Storage of finished product in freezer.*

(1) *Sharp freezers.* Plastic cream or frozen cream intended for storage shall be placed in quick freezer rooms immediately after packaging for rapid and complete freezing within 24 hours. The packages must be piled or spaced so that air can freely circulate between and around the packages. The rooms shall be maintained at -10° F or lower and shall be equipped to provide sufficient high-velocity air circulation for rapid freezing. After the products have been completely frozen, they may be transferred to a freezer storage room for continued storage.

(2) *Freezer storage.* Freezer storage must comply with the following:

(i) The room shall be maintained at a temperature of 0° F or lower. Air circulation must be sufficient to preclude odors and maintain uniform storage temperatures throughout the freezer.

(ii) Butter intended to be held more than 30 days shall be placed in a freezer room as soon as possible after packaging. If not frozen before being placed in the freezer, the packages shall be spaced to permit rapid freezing and repiled, if necessary, at a later time.

SUPPLEMENTAL REQUIREMENTS FOR PLANTS MANUFACTURING AND PACKAGING CHEESE

§ 59a.371. Rooms and compartments.

(a) *Starter room.* Starter rooms or areas shall be properly equipped and maintained for the propagation and handling of starter cultures. Necessary precautions shall be taken to prevent contamination of the starter, the room, equipment and the air therein.

(b) *Make room.* The room in which the cheese is manufactured must be of adequate size, and the vats adequately spaced to permit movement around the vats and presses for proper cleaning and satisfactory working conditions. Adequate ventilation shall be provided.

(c) *Drying room.* If cheese is to be paraffined, a drying room of adequate size shall be provided to accommodate the maximum production of cheese during the flush period. Adequate shelving and air circulation shall be provided for proper drying. Suitable temperature and humidity control facilities shall be provided.

(d) *Paraffining room or area.* For rind cheese, a separate room or area shall be provided for paraffining and boxing the cheese. The room or area must be of adequate size and the temperature maintained near the temperature of the drying room to avoid sweating of the cheese prior to paraffining.

(e) *Rindless block wrapping area.* For rindless blocks, a suitable space shall be provided for proper wrapping and boxing of the cheese. The area must be free from dust, condensation, mold or other conditions which may contaminate the surface of the cheese or contribute to the unsatisfactory packaging of the cheese.

(f) *Coolers or curing rooms.* Coolers or curing rooms where cheese is held for curing or storage must be clean and maintained at the proper uniform temperature and humidity to adequately protect the cheese. Proper circulation of air shall be maintained at all times. The rooms must be free from rodents, insects and pests. The shelves shall be kept clean and dry.

(g) *Cutting and packaging rooms.* When small packages of cheese are cut and wrapped, separate rooms shall be provided for the cleaning and preparation of the bulk cheese and a separate room shall be provided for the cutting and wrapping operation. The rooms must be well lighted, ventilated and provided with filtered air. Air movement must be outward to minimize the entrance of unfiltered air into the cutting and packaging room.

§ 59a.372. Equipment and utensils.

(a) *General construction, repair and installation.* Equipment and utensils necessary to the manufacture of cheese and related products must meet the requirements of § 59a.304 (relating to equipment and utensils). In addition, for other equipment the following requirements in this section shall be met.

(b) *Starter vats.* Bulk starter vats must be of stainless steel or equally corrosion resistant metal and must be in good repair, equipped with tight-fitting lids and have adequate temperature controls, such as valves, indicating or recording thermometers. New vats shall be constructed according to the applicable 3-A Sanitary Standards.

(c) *Cheese vats.* Requirements are as follows:

(1) Open vats used for making cheese must be of metal construction with adequate jacket capacity for uniform heating. The inner liner must be minimum 16-gauge stainless steel, properly pitched from side to center and from rear to front for adequate drainage. The liner must be smooth, free from excessive dents or creases and extend over the edge of the outer jacket. The outer jacket must be constructed of stainless steel or other equally corrosion resistant metal which can be kept clean and sanitary. The junction of the liner and outer jackets must be constructed to prevent milk or cheese from entering the inner jacket.

(2) The vat must be equipped with a suitable sanitary outlet valve. Effective valves must be provided and properly maintained to control the application of heat to the vat.

(3) Enclosed cheese vats must meet the requirements of the current 3-A Sanitary Standards for Enclosed Cheese Vats and Tables.

(d) *Mechanical agitators.* The mechanical agitators must be of sanitary construction. The carriage and track must be constructed to prevent the dropping of dirt or grease into the vat. Metal blades, forks or stirrers must be constructed of stainless steel, and be free from rough or sharp edges which might scratch the equipment or remove metal particles.

(e) *Curd mill and miscellaneous equipment.* Knives, hand rakes, shovels, paddles, strainers and miscellaneous equipment must be stainless steel or of material approved in the 3-A Sanitary Standards. The product contact surfaces of the curd mill must be of stainless steel. Pieces of equipment must be constructed so they can be kept clean. The wires in the curd knives must be stainless steel or other suitable metal, kept tight and replaced when necessary.

(f) *Hoops and followers.* The hoops, forms and followers must be constructed of stainless steel or heavy tinned steel. If tinned, they shall be kept tinned and free from rust. Hoops, forms and followers shall be kept in good repair. Drums or other special forms used to press and store cheese must be clean and sanitary.

(g) *Press.* The cheese press must be constructed of stainless steel with all joints welded and all surfaces, seams and openings readily cleanable. The pressure device must be the continuous type. Press cloths shall be maintained in good repair and in a sanitary condition. Single-service press cloths shall be used only once.

(h) *Rindless cheese press.* The press used to heat seal the wrapper applied to rindless cheese must have square interior corners, reasonably smooth interior surface and have controls that provide uniform pressure and heat equally to all surfaces.

(i) *Paraffin tanks.* The metal tank must be adequate in size, have paraffined wood or metal racks to support the cheese, heat controls and an indicating thermometer. The cheese wax shall be kept clean.

(j) *Automatic curd conveyors.* When the salted curd is moved to a hooping station for blocks or barrels by means

of an air conveying system, the nonproduct contact surfaces of the system must be constructed of suitable nontoxic material which is corrosion resistant. Product contact surfaces must be constructed of stainless steel with all joints welded or properly gasketed, and all surfaces readily accessible and cleanable. The air shall be filtered and of sufficient quality for the intended use. Air compressors or vacuum pumps may not be located in the processing or packaging areas.

(k) *Whey probes.* Vacuum equipment used to withdraw whey from cheese must be constructed of stainless steel tubes and be readily accessible and removable for cleaning and inspection.

(l) *Cheese vacuumizer.* Bulk cheese vacuum chambers, if used, must be installed so that floor surfaces underneath are effectively sealed or have enough clearance so they can be cleaned. Interior surfaces of the vacuum chamber must be constructed and maintained so that the product is not contaminated with rust or flaking paint. An inner liner of stainless steel or other corrosion resistant material shall be provided.

§ 59a.373. Operations and operating procedures.

(a) *Cheese from pasteurized milk.*

(1) When the cheese is labeled as pasteurized, the milk shall be pasteurized by subjecting every particle of milk to a minimum temperature of 161° F for at least 15 seconds.

(2) HTST pasteurization units must be equipped with the proper controls and equipment to assure pasteurization. If the milk is held more than 2 hours between time of receipt or heat treatment and setting, it shall be cooled to 45° F or lower until time of setting.

(b) *Cheese from unpasteurized milk.* When the cheese is labeled as "heat treated," "unpasteurized," "raw milk" or "for manufacturing," the milk may be raw or heated at temperature below pasteurization. If the milk is held more than 2 hours between time of receipt or heat treatment and setting, it shall be cooled to 45° F or lower until time of setting.

(c) *Whey disposal.* Disposal of whey shall be as follows:

(1) Adequate sanitary facilities shall be provided for the disposal of whey. If outside, necessary precautions shall be taken to minimize flies, insects and development of objectionable odors.

(2) Whey or whey products intended for human food shall at all times be handled in a sanitary manner under this subpart as specified for handling milk and dairy products. Equipment operated on a batch or vat basis shall be cleaned or thoroughly rinsed between batches or vats. If equipment is operated on a continuous basis, the whey collection pans shall be rinsed at least once every 2 hours of operation with potable water.

(d) *Packaging and repackaging.* Packaging rindless cheese or cutting and repackaging all styles of bulk cheese requires a high level of sanitation to prevent the contamination of exposed product. The atmosphere of the packaging rooms, the equipment and the packaging material must be practically free from mold and bacterial contamination.

(e) *General identification.* Each bulk cheese must be legibly marked with the name of the product, code or date of manufacture, vat number, officially designated code number or name and address of manufacturer. Each consumer sized container must be plainly marked with the name and address of the manufacturer, packer, or

distributor, net weight of the contents, name of the product and other information that may be required.

SUPPLEMENTAL REQUIREMENTS FOR PLANTS MANUFACTURING, PROCESSING AND PACKAGING PASTEURIZED PROCESS CHEESE AND RELATED PRODUCTS

§ 59a.381. Equipment and utensils.

(a) *General construction, repair and installation.* The equipment and utensils used for the handling and processing of cheese products must be as specified in § 59a.304 (relating to equipment and utensils). In addition, for certain other equipment the requirements in this section shall be met.

(b) *Conveyors.* Conveyors must be constructed of material which can be properly cleaned, will not rust, or otherwise contaminate the cheese, and shall be maintained in good repair.

(c) *Grinders or shredders.* The grinders or shredders used in the preparation of the trimmed and cleaned natural cheese for the cookers must be adequate in size. Product contact surfaces must be of corrosion resistant material, and of a construction to prevent contamination of the cheese and to allow thorough cleaning of all parts and product contact surfaces.

(d) *Cookers.* The cookers must be the steam jacketed or direct steam type. The cookers must be constructed of stainless steel or other equally corrosion resistant material. Product contact surfaces must be readily accessible for cleaning. Each cooker must be equipped with an indicating thermometer and a temperature recording device. Steam check valves on direct steam type cookers must be mounted flush with cooker wall, constructed of stainless steel and designed to prevent the backup of product into the steam line, or the steam line must be constructed of stainless steel pipes and fittings which can be readily cleaned. If direct steam is applied to the product, only culinary steam shall be used.

(e) *Fillers.* The hoppers of all fillers must be covered but the cover may have sight ports. If necessary, the hopper may have an agitator to prevent buildup on side wall. The filler valves and head shall be kept in good repair, capable of accurate measurements.

§ 59a.382. Operations and operating procedures.

(a) *Trimming and cleaning.* The natural cheese shall be cleaned free of all nonedible portions. Paraffin and bandages as well as rind surfaces, mold or unclean areas of another part which is unwholesome or unappetizing shall be removed.

(b) *Cooking the batch.* Each batch of cheese within the cooker, including the optional ingredients, shall be thoroughly commingled, the contents pasteurized at a temperature of at least 158° F and held at that temperature for at least 30 seconds. Care shall be taken to prevent the entrance of cheese particles or ingredients after the cooker batch of cheese has reached the final heating temperature. After holding for the required period of time, the hot cheese shall be emptied from the cooker as quickly as possible.

(c) *Forming containers.* Containers either lined or unlined shall be assembled and stored in a sanitary manner to prevent contamination. Procedures must be in place for the handling of containers between forming and filling that prevent contamination of the product contact surfaces. Preforming and assembling of pouch liners and containers shall be kept to a minimum and the supply

rotated to limit the length of time exposed to possible contamination prior to filling.

(d) *Filling containers.* Hot fluid cheese from the cookers may be held in hotwells or hoppers to assure a constant and even supply of processed cheese to the filler or slice former. Filler valves must effectively measure the desired amount of product into the pouch or container in a sanitary manner and cut off sharply without drip or drag of cheese across the opening. An effective system shall be used to maintain accurate and precise weight control. Damaged or unsatisfactory packages shall be removed from production, and the cheese may be salvaged into sanitary containers and added back to cookers.

(e) *Closing and sealing containers.* Pouches, liners or containers having product contact surfaces after filling shall be folded or closed and sealed in a sanitary manner, preferably by mechanical means, to assure against contamination. Each container in addition to other required labeling must be coded in a manner that is easily identifiable as to date of manufacture by lot or subplot number.

SUPPLEMENTAL REQUIREMENTS FOR PLANTS MANUFACTURING, PROCESSING AND PACKAGING EVAPORATED, CONDENSED OR STERILIZED MILK PRODUCTS

§ 59a.391. Equipment and utensils.

(a) *General construction, repair and installation.* The equipment and utensils used for processing and packaging evaporated and condensed milk shall be as specified in § 59a.304 (relating to equipment and utensils).

(b) *Evaporators and vacuum pans.* Equipment used in the removal of moisture from milk or milk products for the purpose of concentrating the solids must meet the requirements of the current *3-A Sanitary Standards for Milk and Milk Products Evaporators and Vacuum Pans*. New or used replacements for this type of equipment must meet the appropriate *3-A Sanitary Standards*.

(c) *Fillers.* Both gravity and vacuum type fillers must be of sanitary design and all product contact surfaces, if metal, must be made of stainless steel or equally corrosion resistant material. Certain evaporated milk fillers having brass parts may be approved if free from corroded surfaces and kept in good repair. Fillers must be designed so that they in no way will contaminate or detract from the quality of the product being packaged.

(d) *Batch or continuous in-container sterilizers.* Batch or continuous in-container sterilizers must be equipped with accurate temperature controls and effective valves for regulating the sterilization process. The equipment shall be maintained to assure control of the length of time of processing and to minimize the number of damaged containers.

(e) *Homogenizers.* Homogenizers, where applicable, shall be used to reduce the size of the fat particles and to evenly disperse them in the product. New homogenizers must meet the applicable *3-A Sanitary Standards*.

§ 59a.392. Operations and operating procedures.

(a) *Preheat, pasteurization.* When pasteurization is intended or required by either the vat method, HTST method, or by the UHT method it shall be accomplished by systems and equipment meeting the requirements of § 59a.304 (relating to equipment and utensils).

(b) *Sterilization.* The complete destruction of all living organisms shall be performed in one of the following methods:

(1) The complete in-container method, by heating the container and contents to a range of 212° F to 280° F for a sufficient time.

(2) By a continuous flow UHTST process at high temperature of 280° F and above for a sufficient time, then packaged aseptically.

(3) The product is first sterilized according to UHTST methods as in paragraph (2), then packaged and given further heat treatment to complete the sterilization process.

(c) Filling containers.

(1) The filling of small containers with products shall be done in a sanitary manner. The containers may not contaminate or detract from the quality of the product in any way. After filling, the container shall be hermetically sealed.

(2) Bulk containers for unsterilized products must be suitable and adequate to protect the product in storage or transit. The bulk container, including bulk tankers, shall be cleaned and sanitized before filling, and filled and closed in a sanitary manner.

(d) *Aseptic filling.* A previously sterilized product shall be filled under conditions which prevent contamination of the product by living organisms or spores. The containers prior to being filled shall be sterilized and maintained in a sterile condition. The containers shall be sealed in a manner that prevents contamination of the product.

(e) *Storage.* Proper facilities shall be provided for the storage and handling of finished product.

Subchapter F. RAW MILK FOR HUMAN CONSUMPTION

Sec.

- 59a.401. Raw milk; general.
- 59a.402. Raw milk; prohibitions.
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- 59a.404. Requirements for the issuance of a raw milk permit.
- 59a.405. Sanitation.
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- 59a.408. Regular testing of raw milk for human consumption.
- 59a.409. Violations of raw milk testing standards.
- 59a.410. Raw milk packaging.
- 59a.411. Label content review by the Department.
- 59a.412. Inspection, sampling and testing by the Department.
- 59a.413. Enforcement: Suspension or revocation of a raw milk permit.
- 59a.414. Enforcement: Summary criminal prosecution.
- 59a.415. Enforcement: Injunctions.
- 59a.416. Enforcement: Seizure, condemnation, denaturing or destruction of raw milk; exclusion from sale.

§ 59a.401. Raw milk; general.

This subchapter prescribes the permitting, testing and inspection requirements that are applicable to persons seeking to sell raw milk for human consumption.

§ 59a.402. Raw milk; prohibitions.

(a) *Sale of raw milk without permit.* A person may not sell raw milk for human consumption without having a current raw milk permit issued by the Department. The term "sell" includes the selling, exchanging, delivering or having in possession, care, control or custody with intent to sell, exchange, or deliver or to offer or to expose for sale.

(b) *Actions authorized under a raw milk permit.* A raw milk permit authorizes the permitholder to lawfully produce and sell (within this Commonwealth) raw whole milk for human consumption. It also authorizes the permitholder to obtain an additional permit, issued by the Department under authority of 21 CFR 133.150 (relating

to hard cheeses), authorizing the sale of aged cheese manufactured from raw milk.

(c) *Compliance with testing and documentation requirements.* A person may not sell raw milk for human consumption without being in compliance with the testing and documentation requirements of this section.

§ 59a.403. Raw milk permit.

(a) *Application.* A raw milk permit application may be obtained by contacting the Department at the address in § 59a.3 (relating to contacting the Department).

(b) *Duration.* A raw milk permit will be valid for no more than 1 year. Each raw milk permit will expire as of September 1 each year, unless revoked or suspended earlier by the Department.

(c) *Timing of filing to ensure Department review of an application for a successor raw milk permit.* If a raw milk permitholder wishes to obtain a raw milk permit to replace an expiring raw milk permit, the permitholder is encouraged, but is not required, to file an application for this successor raw milk permit with the Department by July 1 of the year in which the current raw milk permit is to expire. Compliance with this recommendation may help to prevent a lapse between the expiring raw milk permit and the effective date of the successor raw milk permit.

§ 59a.404. Requirements for the issuance of a raw milk permit.

(a) *Preissuance inspection.*

(1) *New raw milk permits.* Prior to issuing a raw milk permit, the Department will inspect the dairy farm that is the subject of a new raw milk permit application to determine whether the dairy farm is in compliance with the act and this chapter. The dairy farm must be in compliance with the applicable provisions of the act, the Food Safety Act and this chapter to be eligible for a raw milk permit.

(2) *Successor raw milk permits.* If a raw milk permitholder applies to the Department for a successor raw milk permit, the Department may issue the raw milk permit without conducting the dairy farm inspection described in paragraph (1).

(b) *Confirmation of tuberculosis-free and brucellosis-free status.*

(1) *New raw milk permits.* An applicant for a new raw milk permit shall provide the Department confirmation that the animal or herd from which the raw milk for human consumption is to be produced has been determined to be free from brucellosis and free from tuberculosis, in accordance with the process in § 59a.406 (relating to animal health). This confirmation shall be provided for the subject dairy farm to be eligible for a raw milk permit.

(2) *Successor raw milk permits.* An applicant for a successor raw milk permit shall, at intervals of no greater than 13 months, provide the Department confirmation that the animal or herd from which the raw milk for human consumption is to be produced has been determined to be free from brucellosis and tuberculosis by annual tests in accordance with the process in § 59a.406.

(c) *General herd health.*

(1) *New raw milk permits.* An applicant for a new raw milk permit shall have a licensed veterinarian examine the animal or herd and provide the Department a written report of this examination. The report must reflect that,

upon physical examination, the subject animals are in apparent good health and free from evidence of communicable disease. This shall be done in accordance with § 59a.406.

(2) *Successor raw milk permits.* An applicant for a successor raw milk permit shall provide the Department a copy of a veterinary examination report as described in paragraph (1). The report must be dated within 1 year preceding the date of the application, and reflect that the herd is in general good health and free from communicable disease. The applicant shall continue to have this veterinary examination conducted on an annual basis, in accordance with § 59a.406.

(d) *Confirmation of safe water supply.*

(1) *New raw milk permits.* An applicant for a new raw milk permit shall have the dairy farm water supply tested and provide the Department with confirmation that the water is bacteriologically safe, in accordance with § 59a.407 (relating to regular testing of water supply). Water is bacteriologically safe if it meets the requirements in § 59a.405(8) (relating to sanitation) and § 59a.407. The requirement of a bacteriologically safe water supply is also applicable to recirculated cooling water if the dairy farm uses a recirculated cooling water system for milk cooling. Confirmation that the water supply is bacteriologically safe shall be provided for the subject dairy farm to be eligible for a raw milk permit. If the water supply is through a public or municipal water system, this testing requirement does not apply.

(2) *Successor raw milk permits.* An applicant for a successor raw milk permit shall provide the Department with a copy of a written laboratory report as described in paragraph (1). The report must be dated no earlier than 6 months preceding the date of the application, done in accordance with § 59a.407 and reflect that the dairy farm water supply is bacteriologically safe. Water is bacteriologically safe if it meets the requirements in §§ 59a.405(8) and 59a.407.

(e) *Sampling and testing.*

(1) *New raw milk permits.* An applicant for a new raw milk permit shall demonstrate its ability to produce raw milk for human consumption through the following process:

(i) The applicant shall have an approved sampler draw three separate samples of commingled milk from the bulk tank. The samples shall be drawn at least 7 days apart, and be taken on an unannounced basis.

(ii) Each of these three samples described in subparagraph (i) shall be submitted to a Pennsylvania-approved dairy laboratory or the Department for analysis.

(iii) The analysis described in subparagraph (ii) will determine whether the sample meets the standards in § 59a.408 (relating to regular testing of raw milk for human consumption).

(iv) If any of the three analyzed samples described in subparagraph (iii) violates or exceeds a standard in § 59a.408, the three-sample process shall repeat itself until three successive samples are in compliance with the referenced standards.

(v) If the first of the three required samples is tested as described in subparagraph (iii), and concludes that no pathogenic bacteria are present, the second and third samples need not be tested for the presence of pathogenic

bacteria. If a sample test concludes that pathogenic bacteria are present, a raw milk permit will not be issued until two separate consecutive tests, from samples drawn at least 7 days apart, conclude that no pathogenic bacteria are present.

(2) *Successor raw milk permits.* An applicant for a successor raw milk permit shall demonstrate its ability to produce raw milk for human consumption through the regular sampling and testing process described in § 59.408.

§ 59a.405. Sanitation.

A raw milk permitholder shall maintain and operate the subject dairy operation in compliance with the same sanitation and handling standards that are applicable to the production of milk for pasteurization, as set forth in § 59a.19 (relating to standards for Grade “A” milk for pasteurization, ultra-pasteurization or aseptic processing) except to the extent any of those provisions are inconsistent with this subchapter. The provisions of the Grade “A” PMO, in particular the *Standards for Grade “A” Raw Milk for Pasteurization, Ultrapasteurization or Aseptic Processing* and section 7, regarding standards for Grade “A” milk and milk products, are incorporated by reference as regulations authorized under the act, to the extent they do not conflict with the act or this subchapter. This includes the items listed under the referenced Grade “A” PMO provisions, including the following:

- (1) Item 1r. Abnormal milk.
- (2) Item 2r. Milking Barn, Stable or Parlor—Construction.
- (3) Item 3r. Milking Barn, Stable or Parlor—Cleanliness.
- (4) Item 4r. Cowyard.
- (5) Item 5r. Milkhouse—Construction and Facilities.
- (6) Item 6r. Milkhouse—Cleanliness.
- (7) Item 7r. Toilet.
- (8) Item 8r. Water Supply, with the additional requirement that a plate heat exchanger or tubular cooler installed and in use on a dairy farm shall be equipped with a backflow prevention device.
- (9) Item 9r. Utensils and Equipment—Construction.
- (10) Item 10r. Utensils and Equipment—Cleaning.
- (11) Item 11r. Utensils and Equipment—Sanitization.
- (12) Item 12r. Utensils and Equipment—Storage.
- (13) Item 13r. Milking—Flanks, Udders and Teats.
- (14) Item 14r. Protection from Contamination.
- (15) Item 15r. Drug and Chemical Control.
- (16) Item 16r. Personnel—Handwashing Facilities.
- (17) Item 17r. Personnel—Cleanliness.
- (18) Item 18r. Raw Milk Cooling, with the exception that milk for pasteurization shall be cooled to 4° C (40° F) within 2 hours after the completion of milking.
- (19) Item 19r. Insect and Rodent Control.

§ 59a.406. Animal health.

(a) *General.* A raw milk permitholder shall monitor the health of the animals from which the raw milk for human

consumption is produced to ensure that they are in general good health and free of tuberculosis and brucellosis.

(b) *Confirmation of brucellosis-free status.* A raw milk permitholder shall, at intervals of no greater than 13 months, provide the Department confirmation from a licensed veterinarian that the animal or herd from which the raw milk for human consumption is produced has been determined to be free from brucellosis by annual blood tests conducted in accordance with Chapter 7 (relating to brucellosis regulations).

(c) *Annual confirmation of tuberculosis-free status.* A raw milk permitholder shall, at intervals of no greater than 13 months, provide the Department confirmation from a licensed veterinarian that the animal or herd from which the raw milk for human consumption is produced has been determined to be free from tuberculosis by annual tests conducted in accordance with Chapter 9 (relating to control and eradication of tuberculosis of livestock).

(d) *Annual veterinary examination.* A raw milk permitholder shall, at intervals of no more than 1 year, have a licensed veterinarian examine the herd and issue a written report of this examination. The report must reflect that, upon physical examination, the herd is in apparent good health and free from evidence of communicable disease. The raw milk permitholder shall retain a copy of the written veterinarian’s report for at least 3 years and, upon request of the Department, make the report available for inspection.

§ 59a.407. Regular testing of water supply.

(a) *General requirement of safe and sanitary water.* The water supply for a dairy operation that produces raw milk for human consumption under a raw milk permit must be safe and sanitary.

(b) *Testing frequency.* The water supply for a dairy operation that produces raw milk for human consumption under a raw milk permit shall be tested at least once every 6 months, and whenever any repair or alteration is made to the water supply system. This testing shall be at the raw milk permitholder’s expense. If the water supply is through a public or municipal water system, this testing requirement does not apply.

(c) *Testing standards.* The water tests described in this section shall be conducted at a qualified laboratory. The testing must include bacteriological examinations to determine whether the water is bacteriologically safe. Water is bacteriologically safe if it meets the requirements in §§ 59a.405(8) and 59a.407 (relating to sanitation; and regular testing of water supply). The requirement of a bacteriologically safe water supply is also applicable to recirculated cooling water if the dairy farm uses a recirculated cooling water system for milk cooling. The water supply must contain a Most Probable Number of Coliform Organisms (MPN) of less than 2.2-per-100-milliliters by the multiple tube fermentation method or less than 1-per-100-milliliters by the membrane filter technique or the chromogenic substrate technique. The water must otherwise be safe and sanitary.

(d) *Water test records.* The raw milk permitholder shall retain all records of required water tests for 1 year and make these available for inspection upon request of the Department.

§ 59a.408. Regular testing of raw milk for human consumption.

(a) *Responsibility.* A raw milk permitholder shall be responsible to arrange for the regular sampling and testing required with respect to the raw milk permit, and to pay for this testing.

(b) *Testing laboratories.* Raw milk samples submitted for testing shall be analyzed at an official laboratory or a Pennsylvania-approved dairy laboratory.

(c) *Testing schedule and standards.* A raw milk permitholder shall coordinate the testing of raw milk for human consumption on the following schedule, and the raw milk samples must meet the following standards:

Raw Milk Testing Schedule and Standards

<i>Required Action Interval</i>	<i>Type of Action or Test Required</i>	<i>Standard</i>
At all times	Maintain raw milk temperature in accordance with raw milk temperature standards.	Raw milk shall be cooled to 40° F (4° C) or less within 2 hours after milking, provided that the blend temperature after the first and subsequent milking does not exceed 50° F (10° C).
At least twice each month, in conjunction with the tests for coliform count and for the presence of drugs (including growth inhibitors), described in this subsection	Bacterial count	Bacteria may not be present in excess of 20,000 per milliliter. <i>Note:</i> Tested in conjunction with a drug residue/inhibitory substance test.
At least twice each month, in conjunction with the tests for bacterial count and for the presence of drugs (including growth inhibitors), described in this subsection	Coliform count	Coliform may not exceed 10 per milliliter. <i>Note:</i> Tested in conjunction with a drug residue/inhibitory substance test.
At least twice each month	Somatic cell count	The somatic cell count may not exceed 750,000/milliliter (1,500,000/ml for goat milk).
At least twice each month, in conjunction with the tests for bacterial count and for coliform count, described in this subsection	Test for presence of drugs (including growth inhibitors)	There may be no positive results for drug residue, using drug residue detection laboratory techniques referenced in the current Grade "A" Pasteurized Milk Ordinance developed by the United States Department of Health and Human Services, Food and Drug Administration.
Once every 6 months	From a sample drawn from the bulk tank, test for presence of the following pathogenic bacteria: <i>Salmonellae</i> , <i>Listeria monocytogenes</i> , <i>Camphylobacter</i> and <i>E. Coli</i> 0157:H7	There may be no pathogenic bacteria present.

§ 59a.409. Violations of raw milk testing standards.

(a) *Bacterial count, somatic cell count, coliform count or cooling temperature tests.*

(1) If two of the last four tested raw milk samples exceed the bacterial count, somatic cell count or coliform count standards or cooling temperature requirements described in § 59a.408 (relating to regular testing of raw milk for human consumption), the Department will provide the raw milk permitholder with written notice that it is in violation of the act and this chapter.

(2) If three of the last five tested raw milk samples exceed the bacterial count, somatic cell count or coliform count standards or cooling temperature requirements in § 59a.408, the Department will proceed to revoke or suspend the raw milk permit, and the raw milk permitholder may be subject to summary criminal prosecution under the act.

(b) *Pesticides.* If a raw milk sample tests positive for the presence of a pesticide at or above actionable levels

established for the pesticide the United States Environmental Protection Agency, the raw milk permitholder shall:

(1) Immediately cease the sale of raw milk for human consumption.

(2) Take a second sample and submit it for testing for pesticide residue.

(3) Investigate and determine the cause of the contamination, report the result of that investigation to the Department, and correct that cause of contamination.

(4) Refrain from selling raw milk for human consumption until and unless the second test shows the sample to be free of pesticide residue, or to be below the actionable levels established for the residue by the United States Environmental Protection Agency, and the Department reviews these test results and approves the resumption of raw milk sales.

(c) *Drugs.* If a raw milk sample tests positive for the presence of a drug, the raw milk permitholder shall:

(1) Immediately cease the sale of raw milk for human consumption.

(2) Investigate and determine the cause of the contamination, report the result of the investigation to the Department and correct the cause of contamination.

(3) Have a second sample collected by an approved sampler and tested at a Pennsylvania-approved dairy laboratory.

(4) Refrain from selling raw milk for human consumption until the second test shows the sample to be free of drug residue, and the Department reviews these test results and approves the resumption of raw milk sales.

(d) *Disease-producing organisms.* If a raw milk sample tests positive for the presence of pathogenic bacteria or other disease-producing organisms such as *Salmonellae*, *Listeria monocytogenes*, *Camphylobacter* or *E. Coli* 0157:H7, the raw milk permitholder shall do the following:

(1) Immediately cease the sale of raw milk for human consumption.

(2) Investigate and determine the cause of the contamination, report the result of that investigation to the Department, and correct that cause of contamination.

(3) Wait at least 2 days from the cessation of raw milk sales, and then have an approved sampler collect a sample and submit it to a Pennsylvania-approved dairy laboratory to be tested for the presence of pathogenic bacteria.

(4) Following the initial sampling described in the preceding requirement, have an approved sampler collect an additional sample, at least 1 day after the previous sample, and submit it to a Pennsylvania-approved dairy laboratory for testing for the presence of pathogenic bacteria.

(5) Refrain from selling raw milk for human consumption until and unless two consecutive tests, from samples drawn at least 1 day apart, show that raw milk produced at the dairy operation that is the subject of the raw milk permit is free from disease-producing organisms, and the Department reviews these test results and approves the resumption of raw milk sales.

§ 59a.410. Raw milk packaging.

(a) *Sales or delivery on premises other than the farm where the raw milk for human consumption is produced.* When raw milk for human consumption is packaged for sale or delivery at a location other than the farm where the raw milk for human consumption is produced, bottling and capping, or the filling and closure of containers other than bottles, shall be conducted in a room separate from the milk room by a mechanical means of filling and capping bottles or by a mechanical means of filling and closure of containers other than bottles. The closure must protect the pouring lip to its largest diameter.

(b) *Sales or delivery on premises where the raw milk for human consumption is produced.* When raw milk for human consumption is packaged for sale or delivery at the location where the raw milk for human consumption is produced, the Department will consider a milk room facility as being adequate for bottling and capping, or the filling and closure of containers other than bottles. This activity shall be completed in a sanitary manner using easily cleanable equipment that has been cleaned and sanitized.

(c) *Additional sanitation requirements.* Containers shall be filled and closed without any part of the hand coming

in contact with the inner surface of the bottle or container or in contact with bottle caps. Containers may not be filled by the customer. Caps shall be obtained from sanitary containers and kept in sanitary containers until used. Containers shall be stored in a clean and dry area off the floor and protected from any source of contamination. Washing of returnable bottles or containers shall be conducted in a room that is separate from any room that is devoted to bottling and capping or the filling and closure of containers other than bottles.

§ 59a.411. Label content review by the Department.

(a) *Raw milk in containers owned by the raw milk permitholder.*

(1) *General label statements.* If raw milk for human consumption is prepackaged for sale in containers that are owned by the raw milk permitholder, the labeling on these containers and caps shall be submitted to the Department and approved by the Department prior to use in commerce. The container must be labeled as raw milk, and include the fluid volume as well as the name and address of the distributor or producer and the words "Keep Refrigerated." It may not be misbranded or contain any false or misleading statements. The Department will, within 10 business days of receiving a complete application for label approval, mail the applicant its written approval or denial of the label.

(i) If the application is denied, the written denial will set forth the basis for denial and afford the applicant notice and opportunity for an administrative hearing on the denial.

(ii) If the application is granted, the written approval will contain a copy of the label and assign a unique serial number to each label approved under the application. The Department will retain copies of these approvals.

(2) *Consumer advisory for raw animal-derived foods that have not been processed to remove pathogens.* In addition to the information in paragraph (1), the label must contain a consumer advisory statement to notify consumers of the increased risks (particularly to certain highly susceptible populations) associated with the consumption of raw animal-derived foods that have not been processed to remove pathogens. An acceptable notice would be as follows:

Raw milk has not been processed to remove pathogens that can cause illness. The consumption of raw milk may significantly increase the risk of foodborne illness in persons who consume it—particularly with respect to certain highly-susceptible populations such as preschool-age children, older adults, pregnant women, persons experiencing illness, and other people with weakened immune systems.

(3) *Label requirement: milk dating.*

(i) *Requirement.* The cap of the raw milk container, or the container itself, must be conspicuously and legibly marked in a contrasting color with the designation of the "sell-by" date—the month and day of the month after which the raw milk may not be sold or offered for sale. The designation may be numerical—such as "8-15"—or with the use of an abbreviation for the month, such as "AUG 15" or "AU 15." The words "Sell by" or "Not to be sold after" must precede the designation of the date, or the statement "Not to be sold after the date stamped above" must appear legibly on the container. This designation of the date may not exceed 17 days beginning after midnight on the day on which the raw milk was produced.

(ii) *Prominence of sell-by date on label.* The sell-by date must be separate and distinct from any other number, letter or intervening material on the cap or container.

(iii) *Prohibition.* Raw milk may not be sold or offered for sale for human consumption if the raw milk is sold or offered for sale after the sell-by date designated on the container.

(iv) *Monitoring by the Department.*

(A) The Department will periodically sample containers of raw milk for human consumption in the possession of the raw milk permitholder or a distributor. This sampling may occur at any time before the raw milk is delivered to the customer. The Department will take at least one sample of raw milk from each raw milk permitholder each calendar year.

(B) The samples described in clause (A) shall be analyzed by the Department or a Pennsylvania-approved dairy laboratory, to determine whether bacterial test results exceed the bacterial limits for raw milk described in the Raw Milk Testing Schedule and Standards in § 59a.408 (relating to regular testing of raw milk for human consumption) prior to the expiration of the sell-by date designated on the raw milk container.

(C) When two or more samples demonstrate a raw milk permitholder cannot produce raw milk for human consumption that remains consistently within the bacterial limits referenced in clause (B) through the sell-by date marked on the container, the Department will require a raw milk permitholder to use a shorter sell-by date specified by the Department. The Department will calculate this revised sell-by date so that bacterial growth in the raw milk will not exceed the referenced bacterial limits within that sell-by period if the raw milk is maintained in accordance with the temperature requirements for raw milk in the Raw Milk Testing Schedule and Standards in § 59a.408.

(D) A raw milk permitholder may submit samples to the Department for analysis to obtain approval to resume a specific sell-by period for the raw milk sampled. The Department will approve resumption of a specific sell-by period when analysis of a sample demonstrates that bacterial growth in the raw milk will not exceed the referenced bacterial limits within that sell-by period if the raw milk is maintained in accordance with the temperature requirements for raw milk in the Raw Milk Testing Schedule and Standards in § 59a.408.

(b) *Raw milk in customer-owned containers.*

(1) *Container labeling and caps.* If raw milk for human consumption is packed for sale in containers that are owned by the consumer, Departmental review of the labeling on the container or caps is not required. The Department recommends, but does not require, that customer owned containers be clean, food-grade containers of 1 gallon or smaller capacity.

(2) *Consumer advisory.* If raw milk for human consumption is packed for sale in containers that are owned by the consumer, the raw milk permitholder shall post a consumer advisory at the location where the customer owned containers are filled, or in close proximity to that location, to provide consumers notice of increased risks associated with the consumption of raw animal-derived foods that have not been processed to remove pathogens by certain highly susceptible populations. An acceptable notice would be as described in subsection (a)(2).

§ 59a.412. Inspection, sampling and testing by the Department.

A raw milk permitholder shall allow the Department and its personnel to inspect the dairy operation that is the subject of the permit, review records, draw samples, conduct tests and take other actions necessary to the Department's performance of its responsibilities under the act, the Food Safety Act or any other applicable statute or regulation. If a raw milk permitholder fails to allow this inspection and sampling by the Department, the Department may take steps to revoke or suspend the raw milk permit.

§ 59a.413. Enforcement: Suspension or revocation of a raw milk permit.

(a) *General.* The Department may take action to suspend or revoke a raw milk permit if a permitholder does not comply with the act or this chapter.

(b) *Procedure.*

(1) The act requires that the Department provide a raw milk permitholder with at least 5 days advance written notice of a raw milk permit revocation or suspension. This written notice will be sent by certified mail. The Department may supplement the notice by providing the permitholder the written notice by personal service or other means. The written notice must specify the procedure by which the permitholder may request an administrative hearing and the 5-day window within which a written request for an administrative hearing shall be submitted to the Department.

(2) If the basis for a proposed raw milk permit suspension or revocation is that pathogenic bacteria have been detected in the raw milk, or foreign substances are present in the raw milk, or any condition exists when consumption of raw milk produced and sold prior to revocation or suspension of the raw milk permit may pose a threat to the health or safety of those persons who consume it, the Department will immediately notify the raw milk permitholder and request that it voluntarily cease all sales of raw milk—without regard to whether the raw milk permitholder has received the 5 days advance written notice required under the act. The requirements of this paragraph do not alter the obligation of a raw milk permitholder to cease sales of raw milk for human consumption if required under § 59a.409 (relating to violations of raw milk testing standards).

(i) If a raw milk permitholder complies with a request that it voluntarily cease raw milk sales, the Department will consider this cooperation a mitigating factor as it determines any penalty or sanction relating to the violation.

(ii) If a raw milk permitholder does not choose to comply with a request that it voluntarily cease raw milk sales, the Department will do the following:

(A) Apprise the Department of Health and any local health department having jurisdiction of the situation, and recommend these entities take lawful action to ensure that sales of raw milk cease.

(B) Consult with the Office of Attorney General regarding whether it should institute legal action to obtain an injunction to prohibit the raw milk sales.

(C) Arrange for an administrative hearing before a hearing examiner, if the raw milk permitholder has been afforded written notice and opportunity for a hearing on the proposed suspension or revocation and requests a hearing on the proposed permit suspension or revocation.

(D) Issue a final adjudication, ordering the suspension or revocation, if the raw milk permitholder does not request a hearing on the proposed permit suspension or revocation.

(E) Recommend to the raw milk permitholder that it inform its customers that it has been asked by the Department to voluntarily cease raw milk sales and provide these customers the basis for the Department's request.

(c) *Ownership of raw milk permit.* A raw milk permit is and remains the property of the Department even when it is in the physical custody of the permitholder. If a raw milk permit is suspended or revoked, and the permitholder has been afforded written notice and opportunity for a hearing on the proposed suspension or revocation, the person in possession of the raw milk permit shall immediately return or surrender that raw milk permit to the Department. In the case of a permit suspension, the Department will promptly return the raw milk permit to the permitholder at the end of the suspension period.

§ 59a.414. Enforcement: Summary criminal prosecution.

If a raw milk permitholder violates any provision of the act or this chapter, the Department may file a summary prosecution against a raw milk permitholder for the violation. The violation is graded as a summary offense.

§ 59a.415. Enforcement: Injunctions.

The Department may ask the Attorney General to initiate legal action to enjoin a person from selling raw milk for human consumption without the required raw milk permit or from violating the act or this chapter. Violations of an injunction can result in fines or imprisonment, or both.

§ 59a.416. Enforcement: Seizure, condemnation, denaturing or destruction of raw milk; exclusion from sale.

(a) *Seizure, condemnation, denaturing or destruction of raw milk.* Whenever, in the opinion of the Secretary, a given supply of raw milk or raw milk products is considered unsafe or a menace to public health, the Secretary may seize, condemn, denature or destroy the milk or milk products, without compensation to the owner of the milk or milk products. Examples of circumstances under which raw milk or raw milk products may be unsafe or a menace to public health include situations when raw milk or raw milk products have been produced in violation of the act, the Food Safety Act or this chapter and these violations relate to handling and sanitation, when herd health conditions risk the transmittal of disease through the milk or milk products or when pathogenic bacteria are present in the raw milk permitholder's raw milk supply,

(b) *Excluding milk from sale.* The Department may exclude raw milk or raw milk products from sale in either of the following circumstances:

(1) The Secretary considers the raw milk or raw milk products to be unsafe or a menace to public health.

(2) If a raw milk permitholder violates a provision of the act or this chapter.

Subchapter G. MISCELLANEOUS PROVISIONS

Sec.

59a.501. Interrelatedness with Food Safety Act.

§ 59a.501. Interrelatedness with Food Safety Act.

The subject matter of the act and this chapter overlaps with the subject matter of the Food Act (repealed) and the regulations promulgated under authority of that statute in Chapter 46 (relating to food code). This chapter does not restrict, prevent or limit the Department or any other government entity from exercising authority under the Food Safety Act or its attendant regulations with respect to milk, milk products, manufactured dairy products or any other foods.

[Pa.B. Doc. No. 11-844. Filed for public inspection May 20, 2011, 9:00 a.m.]

Title 58—RECREATION

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CH. 465a]

Corrective Amendment to 58 Pa. Code § 465a.15

The Pennsylvania Gaming Control Board has discovered discrepancies between the agency text of 58 Pa. Code § 465a.15 (relating to cashiers' cage), as deposited with the Legislative Reference Bureau, and published at 40 Pa.B. 1082 (February 27, 2010) and the official text published in the *Pennsylvania Code Reporter* (Master Transmittal Sheet No. 426, May 2010). When the amendments made by the Board were codified, subsections (d) and (e) were inadvertently omitted.

Therefore, under 45 Pa.C.S. § 901: The Pennsylvania Gaming Control Board has deposited with the Legislative Reference Bureau a corrective amendment to 58 Pa. Code § 465a.15. The corrective amendment to 58 Pa. Code § 465a.15 is effective as of May 1, 2010, the date the defective official text was announced in the *Pennsylvania Bulletin*.

The correct version of 58 Pa. Code § 465a.15 appears in Annex A, with ellipses referring to the existing text of the regulation.

Annex A

TITLE. 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart A. GENERAL PROVISIONS

Subpart E. SLOT MACHINES AND ASSOCIATED EQUIPMENT

CHAPTER 465a. ACCOUNTING AND INTERNAL CONTROLS

§ 465a.15. Cashiers' cage.

* * * * *

(d) A licensed facility may also have one or more satellite cages separate and apart from the cashiers' cage, established to maximize security, efficient operations or patron convenience. A satellite cage may perform all of the functions of the cashiers' cage and must be equipped with an alarm system in compliance with subsection (c)(1). The functions which are conducted in a satellite cage shall be subject to the accounting controls applicable to a cashiers' cage set forth in this subpart.

(e) A slot machine licensee shall maintain, immediately available to the Board and the Pennsylvania State Police, a current list, with credential numbers, of all persons:

(1) Possessing the combination or keys to the locks securing the double door entry and exit system restricting access to the cashiers' cage and any satellite cage and the vault.

(2) Possessing the ability to activate or deactivate alarm systems for the cashiers' cage, any satellite cage and vault.

(Editor's Note: See 41 Pa.B. 2581 (May 21, 2011) for proposed amendments to § 465a.15.)

[Pa.B. Doc. No. 11-845. Filed for public inspection May 20, 2011, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CH. 465a]

Corrective Amendment to 58 Pa. Code § 465a.20

The Pennsylvania Gaming Control Board has discovered discrepancies between the agency text of 58 Pa. Code § 465a.20 (relating to personal check cashing), as deposited with the Legislative Reference Bureau, and published as a corrective amendment at 39 Pa.B. 1868 (April 11, 2009) and the official text published in the *Pennsylvania Code Reporter* (Master Transmittal Sheet No. 415, June 2009). The corrective amendment to 58 Pa. Code § 465a.20(f) and (g) published at 39 Pa.B. 1868 was not codified in the *Pennsylvania Code Reporter*.

Therefore, under 45 Pa.C.S. § 901: The Pennsylvania Gaming Control Board has deposited with the Legislative Reference Bureau a corrective amendment to 58 Pa. Code § 465a.20. The corrective amendment to 58 Pa. Code § 465a.20 is effective as of June 6, 2009, the date the defective official text was announced in the *Pennsylvania Bulletin*.

The correct version of 58 Pa. Code § 465a.20 appears in Annex A, with ellipses referring to the existing text of the regulations.

Annex A

TITLE. 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart A. GENERAL PROVISIONS

Subpart E. SLOT MACHINES AND ASSOCIATED EQUIPMENT

CHAPTER 465a. ACCOUNTING AND INTERNAL CONTROLS

§ 465a.20. Personal check cashing.

* * * *

(f) A slot machine licensee that charges a fee for cashing checks shall comply with the Check Casher Licensing Act (63 P. S. §§ 2301—2334).

(g) Prior to accepting personal checks, each slot machine licensee shall establish a comprehensive system of internal controls applicable to the acceptance of personal checks. The internal controls shall be submitted to and approved by the Board under § 465a.2 (relating to internal control systems and audit protocols). The internal controls submitted by the slot machine licensee must address procedures for complying with this section including the dollar limitation per gaming day contained in subsection (b)(6).

(Editor's Note: See 41 Pa.B. 2581 (May 21, 2011) for proposed amendments to § 465a.20.)

[Pa.B. Doc. No. 11-846. Filed for public inspection May 20, 2011, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CH. 465a]

Corrective Amendment to 58 Pa. Code § 465a.30

The Pennsylvania Gaming Control Board has discovered discrepancies between the agency text of 58 Pa. Code § 465a.30 (relating to waiver of requirements), as deposited with the Legislative Reference Bureau, and published at 39 Pa.B. 5125 (August 29, 2009) and the official text published in the *Pennsylvania Code Reporter* (Master Transmittal Sheet No. 420, November 2009). When the amendments made by the Board were codified, amendments to subsection (b) were inadvertently omitted.

Therefore, under 45 Pa.C.S. § 901: The Pennsylvania Gaming Control Board has deposited with the Legislative Reference Bureau a corrective amendment to 58 Pa. Code § 465a.30. The corrective amendment to 58 Pa. Code § 465a.30 is effective as of November 7, 2009, the date the defective official text was announced in the *Pennsylvania Bulletin*.

The correct version of 58 Pa. Code § 465a.30 appears in Annex A.

Annex A

TITLE. 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart A. GENERAL PROVISIONS

Subpart E. SLOT MACHINES AND ASSOCIATED EQUIPMENT

CHAPTER 465a. ACCOUNTING AND INTERNAL CONTROLS

§ 465a.30. Waiver of requirements.

(a) The Board may, on its own initiative, waive one or more of the requirements of this chapter or technical standards applicable to accounting and internal controls adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website upon a determination that the nonconforming control or procedure nonetheless meets the operational integrity requirements of the act, this subpart and technical standards adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website.

(b) A slot machine licensee may submit a request to the Board for a waiver for one or more of the requirements in this chapter or the technical standards applicable to accounting and internal controls adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's web site. The request must:

(1) Be filed as a petition under § 493a.4 (relating to petitions generally).

(2) Include supporting documentation demonstrating how the accounting and internal controls for which the waiver has been requested will still meet the operational integrity requirements of the act, this subpart and technical standards adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's web site.

(3) Be approved by the Board.

(Editor's Note: See 41 Pa.B. 2581 (May 21, 2011) for proposed amendments to § 465a.30.)

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PROPOSED RULEMAKING

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CH. 401a, 461a,
465a, 467a, 521 AND 525]

Accounting and Internal Controls; Commencement of Slot and Table Game Operations

The Pennsylvania Gaming Control Board (Board), under the general authority in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers) and specific authority in 4 Pa.C.S. §§ 1207, 1322, 13A02(1)—(6) and 13A25, proposes to amend Chapters 401a, 461a, 465a and 467a and to rescind Chapter 521 and 525 (relating to general provisions; and table game internal controls) to read as set forth in Annex A.

Purpose of the Proposed Rulemaking

With this proposed rulemaking, the Board is proposing to replace the following sections: rescind temporary § 521.3 (relating to table games surveillance requirements) by amending the existing permanent regulations in Chapter 465a (relating to accounting and internal controls); rescind temporary § 521.11 (relating to table games floor plan changes) by amending the permanent regulations in Chapter 467a (relating to commencement of slot and table game operations); and rescind Chapter 525 by amending Chapter 465a of the permanent regulations.

This proposed rulemaking will amend the internal control provisions and the provisions on the commencement of gaming operations so the current requirements for slot operations will also be applicable to table game operations. This proposed rulemaking will also provide some clarity, delete some filings and update the regulations to reflect the Board's experience to date.

Explanation of Amendments to Chapters 401a, 461a, 465a and 467a

Throughout this proposed rulemaking, the term "table games" has been added so that the operational requirements that were applicable to slot machines are now applicable to table game operations within the same licensed facility. The terms "cashiers' cage" and "slot cage" have been changed since there is not a separate slot cage or cashiers' cage but one cage or a main cage for facilities with satellite cages. Additionally, "person" has been changed to "individual" in many sections since "person" is a statutorily defined term that includes both individuals and entities.

In § 401a.3 (relating to definitions), the definition of "complimentary service" has been amended to clarify that it does not include points awarded to patrons who are members of a slot machine licensee's player rewards program or credits for free slot play. In many gaming jurisdictions, complimentaries and credits for free slots play are treated the same when calculating taxes due to the gaming jurisdiction. In this Commonwealth, credits for free slot play (which may be given directly or received in exchange for points earned in a player rewards program) or promotional play may be deducted from the total of cash or cash equivalent wagers when calculating gross terminal revenue. The value of complimentaries including cash and noncash gifts or reimbursements may

not be deducted from gross terminal or gross table game revenue. The amended definition reflects this distinction.

The term "certificate holder" was added to § 401a.3 and is used throughout the regulations to refer to those slot machine licensees that have been awarded a certificate to operate table games at the licensed facility.

The definition of "gaming employee" has been amended. Although the individuals listed in subparagraph (i)(P) of the definition are directors or department heads and were previously required to be licensed as key employees, the Board has determined that these individuals should be permitted as gaming employees. The directors of facilities and construction may access restricted areas in the licensed facility. Additionally, all three of these directors supervise employees who are required to be on the gaming floor. Employees who are on the gaming floor and contact electronic gaming tables, slot monitoring systems, casino management systems or player tracking systems are also required to be permitted as gaming employees, which was added in subparagraph (ii). These positions were therefore removed from the definition of "key employee" in subparagraph (ii).

In § 461a.1 (relating to definitions), the definition of "cash equivalents" has been updated to reflect statutory amendments to 4 Pa.C.S. Part II (relating to Pennsylvania Race Horse Development and Gaming Act) (act).

The term "count team" has been added to this section. The count team includes those individuals who count the contents of slot cash storage boxes and table game drop boxes while the drop team consists of those individuals who pick up the boxes from the gaming floor. Adding this definition does not imply that two separate teams are required since at most facilities the drop team and the count team are comprised of the same individuals.

The term "gaming day" was amended by deleting the reference to the central control computer system (CCS) since the CCS does not calculate gross table game revenue.

The definition of "gaming voucher" has been amended to allow noncashable credits to be used only on slot machines.

In § 461a.12(g) (relating to progressive slot machines), RAM clear (zeroing out of any meter) was added to the list of process that require testing by the Gaming Lab. This was added because the calculation of gross terminal revenue is calculated using the metered win so altering the meters requires testing by the Gaming Lab. Additionally, examples of modifications that require lab testing were added to subsection (g). One of the references to the progressive jackpot was deleted as unnecessary language in subsection (i) and the cross-reference was changed from subsection (j) to the proper subsection (k).

In § 465a.2 (relating to internal control systems and audit protocols), applicants were deleted as they do not submit internal controls. Internal controls are submitted only by licensees prior to the commencement of slot or table game operations. Subsection (a)(8) was amended for clarity. In subsection (b), "competent person" was changed to "delegated individual" because this responsibility should be performed by someone who is authorized to sign on behalf of the chief executive officer or chief financial officer. The remaining changes to this section were made for clarity.

In § 465a.5 (relating to annual audit; other reports; suspicious activity and currency transaction reporting),

the type of financial reports in subsections (c), (e) and (f) are no longer required to be filed as part of the slot machine licensee's audited financial statements. The reference to subsection (e) has therefore been deleted from proposed subsection (d), current subsection (g). The remaining subsections were renumbered.

In proposed subsection (c), current subsection (d), the time period to file the audited financial statements was extended from 60 days to 90 days in conformity with statutory amendments to the act.

In § 465a.6(c)(3) (relating to retention, storage and destruction of books, records and documents), the retention period for voided gaming vouchers was reduced from 6 months to 30 days. Voided gaming voucher information can be obtained through the facility's computer system so retention of claimed gaming vouchers for 6 months is unnecessary. In subsection (c)(4), fully automated electronic gaming tables were added since both slot and fully automated machines accept gaming vouchers.

Section 465a.7(a) (relating to complimentary services or items) has been amended to require Board approval of the internal controls regarding authorization and issuance of complimentary services and items. Informal Board reviews of these internal controls developed by slot machine licensees to date have found that these internal controls, in some cases, are not adequate. Therefore, slot machine licensees will be required to submit their internal controls regarding complementaries to the Board for review in the same manner as other internal controls.

Additionally, the general language in subsection (a) concerning the specific employees to whom these internal controls will apply has been deleted and replaced with a new, more detailed provision in subsection (b)(3), which requires the slot machine licensee to develop a matrix which shows which employees (by job title) are authorized to issue complimentary services or items including cash and noncash reimbursements, which comps those employees are allowed to issue and at what value. Similarly, the general audit requirement in subsection (b)(4) has been revised to require the slot machine licensee's internal audit department to audit the issuance of complimentary services. These changes will make it clear which employees are authorized to issue complementaries and strengthen the effectiveness of oversight on the issuance of complementaries. Finally, subsection (e) has been amended so the report required under subsection (e) will be submitted to the Bureau of Casino Compliance rather than the Bureau of Investigations and Enforcement.

Section 465a.8 (relating to licensed facility) has been amended so the Bureau of Casino Compliance, not the Bureau of Gaming Operations, is responsible for inspecting and approving various aspects of the licensed facility prior to the commencement of gaming operations including audible alarms, signage and the suitability of the casino compliance office.

Section 465a.9(a) (relating to surveillance system; surveillance department control; surveillance department restrictions) requires the Bureau of Casino Compliance, instead of the Bureau of Investigations and Enforcement, to review surveillance coverage. Subsection (c) was amended for clarity and to add the requirements for table game surveillance coverage. On table games that are not fully automated, operators are required to have a specific number of cameras, as specified in subsection (c)(2), depending on the table game type. Fully automated electronic gaming tables are required to have the same camera coverage as slot machines. Adequate surveillance

coverage is necessary to detect and record cheating and theft, to reconstruct patron play in the event of a dispute or irregularity and for the protection of assets during the drop and count process.

In subsection (e), the slot machine licensee is now required to continuously record the distribution, inspection and retrieval of cards, dice and tiles to and from the gaming pits. This is to ensure the integrity of the equipment used for play. Additionally, requiring ATM machines to be equipped with a camera to record the face of each patron transacting business at the machine will be required since aerial shots do not adequately show the face of individuals transacting business at ATMs.

Subsection (j) was updated to reflect the changes made in subsection (e). Operators will be required to retain for 30 days the surveillance recordings regarding the following: transactions conducted at the main cage or satellite cage; the count process; armored car collection and delivery; operations conducted at ATMs, coupon redemption units and jackpot payout machines; and entrances and exits. Only one retention period was extended from 7 days to 30 days and that was the counting of assets conducted in the count room. Based on the Board's experience to date, a 7-day retention period is not adequate to determine if theft or mishandling of funds in the count room was an isolated incident by one individual or a repeated course of conduct by many individuals. Subsection (m) was amended for clarity.

Amendments to § 465a.11 (relating to slot machine licensee's organization; jobs compendium) add additional surveillance requirements regarding the operation of table games; require credit to come under the director of finance; require a certificate holder to have a table games department or a gaming department which includes both slot machine and table game operations; and update the assets that the finance department is now responsible for.

Subsections (g)—(m) were added to require a licensee to submit a jobs compendium which includes organization charts of each department or division and detailed job descriptions for each position. This information will be reviewed by the Board to ensure that there is a proper segregation of duties to protect the integrity of gaming and to verify that the proper licensing, permitting or registration requirements will be met. This section also sets forth the process to be used to amend the jobs compendium and requires that an updated jobs compendium be filed annually. The jobs compendium submission requirement is consistent with 4 Pa.C.S. § 13A25(c) (relating to table game accounting controls and audit protocols).

Section 465a.12 (relating to access badges and temporary access credentials) has been updated to require operators to provide an access matrix containing all restricted areas and the employees who have access to those areas. This is necessary to ensure that only those employees who are authorized to be in certain areas of the licensed facility, such as the cage or storage areas, have access to those areas.

The cage characteristics in § 465a.15 (relating to cage characteristics) and the accounting controls for the cage in § 465a.16 (relating to accounting controls for the cage) have been updated to reflect the additional types of assets that the cage is responsible for with the addition of table games. In § 465a.15(b), the supervisor of the cage is no longer required to be licensed as a key employee but is permitted as a gaming employee. This is updated to reflect the statutory amendments to the act.

Section 465a.17 (relating to bill validators, slot cash storage boxes and table game drop boxes) has been updated to include the key control and description of table game drop boxes. Since fully automated electronic gaming tables are equipped like a slot machine, the requirements for bill validators and key controls have been applied to fully automated electronic gaming tables in subsections (a)—(e). The requirements for table game drop boxes from a table game that is not a fully automated electronic gaming table have been added in subsections (f)—(j). These requirements are necessary to ensure the protection of the assets contained within those slot cash storage boxes and table game drop boxes.

Section 465a.18 (relating to transportation of slot cash storage boxes and table game drop boxes to and from the gaming floor; storage) has been updated to add the requirements for the movement of table game drop boxes from the gaming floor. Table game drop boxes from fully automated electronic gaming tables may be collected at the same time as slot cash storage boxes. All table game drop boxes from fully automated and live play tables are required to be collected daily, regardless of whether the table was open for play. Requiring the drop of an empty drop box on a table that was not open for play is the easiest way to ensure that boxes have not gone missing and that all boxes containing funds were collected during a drop. Operators are required to file a schedule of which boxes are picked up daily, the route the drop team will take to and from the count room and which employees will have access to the keys to open the boxes. These are the requirements designed to protect the assets contained within the slot cash storage and table game drop boxes.

Section 465a.19 (relating to acceptance of tips or gratuities from patrons) has been updated to reflect the statutory amendments to 4 Pa.C.S. § 13A02(6) (relating to regulatory authority). An operator is required to submit internal controls specifying its policy on tips and gratuities. The pooling of tips required under the act reduces the likelihood of diverting chips into an employee's tip box since all chips for banked dealers are required to be distributed pro rata among all dealers. The Department of Revenue also has an interest in adequate tip procedures to ensure the proper reporting of income from employees, particularly dealers who derive a substantial portion of their pay through tips.

In § 465a.20(b) (relating to personal check cashing), the provision prohibiting a licensee from cashing a check or multiple checks totaling \$2,500 or more per day will not apply to checks written in conjunction with a credit transaction authorized under the credit provisions in proposed Chapter 609a (relating to credit). See 41 Pa.B. 1769 (April 2, 2011).

Section 465a.22 (relating to cash equivalents) has been updated. When the act was amended, "cash equivalent" was defined to include chips or tokens as well as travelers checks, certified checks, money orders and personal checks. This section is applicable to checks and other types of cash equivalents but is not applicable to chips or tokens used for play at a gaming table. Proposed subsection (a) was therefore added excluding gaming chips or plaques from the requirements on cash equivalents in this section.

Section 465a.24 (relating to count room characteristics) was updated to reflect the additional types of drop boxes that the count room is responsible for with the addition of table games.

In § 465a.25 (relating to counting and recording of slot cash storage boxes and table game drop boxes), the count

process for the slot cash storage boxes and table game drop boxes has been updated. Although the amount of tax collected for the Commonwealth on slot revenue is based on the slot machine meters recorded by the CCS, the revenue for table game play is based on the unrecorded funds in the table game drop boxes that are then counted and recorded by the count team. Additional safeguards are therefore necessary to ensure the accurate counting and recording of table game drop boxes.

For clarity and to provide a logical flow of the count room process, the existing provisions in § 465a.25 have been replaced. Operators are still required to submit internal controls, which were previously required in subsection (f), regarding the count process. Proposed subsection (a) consolidates what must be contained in the internal controls. The workflow diagram in subsection (a)(1) is a new requirement which provides an overview of where cash, cash equivalents and equipment should be during every step of the counting process. Having the diagram makes it easier for casino compliance representatives and the surveillance department, which is required to record the count to trace irregularities in the count process.

The requirements in proposed subsection (a)(2) regarding a description of all equipment and files used to conduct the count was moved from current subsection (g). Internal controls on the procedures the facility must utilize to empty and count the contents of storage and drop boxes in subsection (a)(3) has been updated so the requirements for slot cash storage boxes are also applicable to table game drop boxes. Several of the provisions in subsection (a)(3) were moved from current subsections (b), (h) and (i).

The required procedures in subsection (a)(4) and (5), regarding internal controls for scheduled breaks and the proper wearing of jumpsuits, are designed to protect the assets removed from slot cash storage boxes and table game drop boxes and to deter or minimize employee theft from the count room. Jumpsuits were previously required under current subsection (c).

Proposed subsection (b) was taken from current subsection (a). Operators shall file a schedule setting forth the times that the contents of the slot cash storage boxes and table game drop boxes will be counted. The Bureau of Casino Compliance is now required because the onsite casino compliance representatives participate in the table game count which occurs immediately after the drop.

Proposed subsection (c) was taken from current subsection (e).

Subsection (d) permits only the individuals necessary to conduct the count in the count room. Additionally, individuals participating in the count may not access areas that are unnecessary to the count process. Subsection (e) requires the presence of a casino compliance representative in the count room prior to the commencement of the count of table game drop boxes from table games that are not fully automated electronic gaming tables. The casino compliance representative presence is not required for the counting of table game drop boxes from fully automated electronic gaming tables since those tables, like slot machines, are connected to the CCS, which determines the revenue not the count.

Subsection (f) requires employees and the casino compliance representative observing the count to sign an attendance sheet. Subsection (g) describes the jumpsuit and which individuals shall wear the jumpsuit during the count process. This was an existing requirement moved from the current subsection (c).

Subsection (h), regarding the carrying of bags into the count room and the proper procedure for clearing the hands of individuals involved in the count process, was moved from current subsection (d). Subsection (i) was added permitting the doors of the count room to be opened for very limited purposes since the count room should be secure while assets are being counted. Requiring employees to clear their hands and having at least three employees in the count room during a count, as required in subsections (j) and (k), is intended to reduce the likelihood of employee theft or collusion.

Operators are currently not required to collect slot cash storage boxes from all slot machines on the gaming floor every day. However, table game drop boxes from all table games are required to be collected daily. Subsection (m) specifies that all table game drop boxes and the slot cash storage boxes that are collected from the gaming floor must be counted and recorded daily. The count for slot cash storage boxes, table game drop boxes from fully automated electronic gaming tables and table game drop boxes from table games that are not fully automated electronic gaming tables shall be counted and recorded separately. Subsection (n) does allow the main bank to buy the counted currency from slot cash storage boxes and table game drop boxes from fully automated electronic gaming tables together since, as previously mentioned, the CCS determines the revenue to tax.

Additional requirements for the counting of table game drop boxes from tables that are not fully automated were added in subsection (o).

Since the CCS is not involved in the count of slot cash storage boxes or table game drop boxes from fully automated electronic gaming tables, current subsection (j), which required the presence of a casino compliance representative if the CCS was not online, was therefore not moved into a new subsection. Instead, subsection (p) requires that if a problem occurs with the slot or table game count, the problem shall be brought to the attention of the casino compliance representative and a written report must be filed with the casino compliance representatives within 24 hours of the conclusion of the count.

Operators may utilize, after submitting internal controls, an alternative procedure for the drop and count of Poker drop boxes. The count shall be conducted in the presence of the casino compliance representative by two employees of the finance department with no incompatible duties. This area is required to be under surveillance and in a segregated area of the poker cage.

The procedures required in § 465a.25 are necessary for the safeguarding of assets and to deter or minimize employee theft from the count room. Having standardized count room procedures ensures the consistent and accurate accounting of assets and revenue and makes it easier for the facility's surveillance department and the casino compliance representatives to detect and track irregularities in the count process.

Section 465a.26 (relating to jackpot and credit meter payouts) has been amended to include fully automated electronic gaming tables which, like slot machines, have credit meters and jackpot payouts. Subsection (b) was updated to account for the different Federal tax reporting requirements for slot machines versus table games. A player who wins \$1,200 or more on a single win at a slot machine is required to complete a W-2G for the Federal tax reporting of gambling winnings. A slot machine is therefore programmed to lock out at \$1,200. For table game play, a player must win \$600 or more, not including

the amount of the initial wager, and the odds have to be at least 300 to 1 before a W-2G is required to be completed. On the fully automated electronic gaming tables, only one optional side wager pays out at that amount and at those odds. The lock out amount on the fully automated electronic gaming tables has been set at \$5,000.

In § 465a.29(a) (relating to automated teller machines), language has been added which prohibits the placement of automated teller machines that offer credit card advances on the gaming floor. This amendment is consistent with changes made to 4 Pa.C.S. § 13A27(a) (relating to other financial transactions), which prohibits the placement of credit card advance machines on the gaming floor.

In § 465a.31(b) (relating to gaming day), unnecessary language has been deleted. In subsection (c), an operator is required to get the approval of the Board's Executive Director prior to changing the facility's hours of operation. This should not be an issue since all slot machine licensees currently operate 24 hours a day.

Section 465a.32(1) (relating to signature) was amended to specify Board-issued credential number since not all employees are licensed.

In consultation with the Department of Revenue and the system operator, which is currently Gtech, § 465a.33 (relating to access to areas containing central control computer equipment) was amended. The provisions now require a licensee to make arrangements with the Department of Revenue and the system operator before accessing an area containing the CCS. The approval of the Board's casino compliance representatives is no longer required. The director of security was added in paragraph (3) because the director of security maintains the key to the area containing the CCS, which may be signed out to employees of the Department of Revenue or the system operator only if the employee is on the authorized access list, which the director of security was previously not authorized to obtain.

In § 465a.34(b)(4) (relating to automated gaming voucher and coupon redemption machine accounting controls), an incorrect cross reference was amended.

The remaining sections in Chapter 465a are new provisions applicable to table game internal controls which were taken from the temporary regulations in Chapter 525.

Section 465a.35 (relating to personnel assigned to the operation and conduct of table games) sets forth minimum staffing requirements for the operation and supervision of table games. The staffing levels in this section are not applicable to fully automated electronic gaming tables, which do not have a live dealer.

Subsection (b) requires one pit clerk for all table game operations. The pit clerk may be responsible for requesting a fill/credit and participating in the issuance of counter checks for credit to patrons. Two dealers are required for a Baccarat table which seats up to 14 players. Craps requires three dealers, one dealer to handle the dice (stickperson) and one dealer to handle patron's wagers at each end of the craps table.

While surveillance is recording activity on the gaming floor, adequate supervisory staff, which is specified in subsections (c), (e), (f) and (g), can detect and deter cheating and theft on the gaming floor and can alert surveillance to direct camera coverage onto certain tables or individuals. On-the-floor staffing protects patrons and

the integrity of gaming and the revenues generated from gaming. These requirements are similar to requirements used in other gaming jurisdictions.

Although minimum staffing levels are specified, subsections (d) and (h) allow certificate holders additional operating flexibility. Subsection (d) permits the supervision of a greater number of table games per floorperson when electronic gaming tables that are not fully automated gaming tables are being used. Subsection (h) allows a certificate holder to file a written request with the Board's Executive Director to use a staffing plan that differs from what is required under this section. After reviewing the plan, the Executive Director will send a letter notifying the operator whether the plan has been approved, denied or conditioned.

Section 465a.36 (relating to table inventories) contains security requirements associated with table inventories, articulates when gaming chips, coins and plaques may be added to or removed from a table inventory and specifies the information that must be included on Table Inventory Slips. Table Inventory Slips are necessary and important since the opening and closing inventory paperwork is used to calculate gross table game revenue. For audit purposes, a Table Inventory Slip is required to be completed once each gaming day, irrespective of whether the table was open for gaming, since all table game drop boxes, which contain a copy of the table inventory slip, are collected each gaming day. Subsection (d) is a segregation of duties requirement which ensures asset protection.

Section 465a.37 (relating to procedures for opening table games) addresses the procedures that shall be followed when a table is being opened for gaming. The dealer or floorperson assigned to the table shall count the table inventory and compare their count to the totals on the Table Inventory Slip included in the table inventory. If the totals agree, the dealer or boxperson and supervising floorperson shall sign the Table Inventory Slip and place it in the drop box at the gaming table. If there is a discrepancy, notice shall be made to the appropriate parties and a written report shall be prepared explaining the cause of the discrepancy. Opening inventory is an essential component in calculating gross table game revenue.

Section 465a.38 (relating to procedures for distributing value chips, coins and plaques to gaming tables) sets forth the procedures for adding value chips, coins or plaques to a gaming table to replenish the table inventory. A Fill Request Slip is made out specifying what value chips, coins or plaques are needed for the replenishment and that form is transported to the chip bank. The personnel in the chip bank will fill the request and complete a Fill Slip which is used to verify that the request has been fulfilled and that the requested amount of value chips, coins or plaques are delivered to the gaming table. This section specifies the information and signatures that must be on the Fill Request Slip and Fill Slip and how the copies of these forms are to be distributed. For audit purposes, the Fill Slip is required to be a three-part form so the chip bank that fills the request has a copy of what left the chip bank, the security employee who accepted the chips from the chip bank and transported them to the floor has a copy and the table that added the chips to the inventory has a copy. All copies of Fill Request and Fill Slips are reconciled in accounting daily. Fills are also a component in calculating gross table game revenue.

Section 465a.39 (relating to procedures for removing value chips, coins and plaques from gaming tables)

establishes the procedures to be used when excess value chips or plaques in a table inventory need to be sent back to the chip bank. Like the process for requesting fills, a Credit Request Slip is made out specifying which value chips, coins or plaques are being returned. That form is transported to the chip bank along with the value chips or plaques. The personnel in the chip bank count the value chips, coins or plaques being returned and complete a three-part Credit Slip which is used to verify that the value chips or plaques being returned. The accounting and drop box copies of the Credit Slip will be returned to the gaming table to obtain the required signatures. After the appropriate signatures are obtained, the drop box copy of the Credit Slip shall be placed in the table game drop box and the accounting copy shall be returned by the security employee to the cage. The chip bank copy is maintained by the chip bank employee who accepted the chips back into the chip bank inventory. All copies of Credit Request and Credit Slips are reconciled in accounting daily. Credits are also a component in calculating gross table game revenue.

Section 465a.40 (relating to procedures for accepting cash for gaming chips, plaques or electronic wagering credits at table games) outlines the procedures that a dealer or boxperson shall use when a patron asks to exchange cash for gaming chips or electronic credits. These procedures are designed to insure that the process is captured by the surveillance department and to avoid errors or disputes associated with the exchange. The cash accepted and deposited in the drop box is collected and recorded daily and is a component in calculating gross table game revenue.

Section 465a.41 (relating to procedures for drops at open table games) establishes a procedure for recording the table inventory at a gaming table that is open when the drop occurs. The count of the table inventory just prior to the removal of the drop box is necessary so that the daily revenue for that gaming table can be calculated.

Section 465a.42 (relating to procedures for closing table games) sets forth the procedures that shall be followed when a gaming table is being closed. The dealer or boxperson and the floorperson assigned to the gaming table shall be required to complete a Table Inventory Slip which will be used to calculate the gaming revenue from that table and is used to verify the contents of the table inventory when the table is reopened. Additionally, this section requires that table inventory be secured in a container that is attached to the table or that is returned to the cage.

Section 465a.43 (relating to table inventories for Poker tables) gives certificate holders the option of using dealer impressed table inventories for Poker tables. Because the rake will be deposited in the drop box at Poker tables, rather than following the procedures in §§ 465a.36, 465a.37, 465a.41 and 465a.42, a certificate holder may want to have its Poker dealers use an impressed table inventory that only the dealer will be responsible for and that will have to be balanced at the end of the dealer's shift.

Section 465a.44 (relating to table inventory counts on a per shift basis) gives certificate holders that use drop boxes that segregate the contents by shift the option of adopting procedures which would require the completion of a new Table Inventory Slip at the close of each shift in addition to the other times a Table Inventory Slip is required to be completed under this chapter.

In § 467a.1 (relating to gaming floor plan), operators that have already submitted an initial gaming floor plan

will no longer be required to submit paper copies of revised gaming floor plans. Electronic submissions will now be accepted provided that there is enough detail in the electronic submission to read the information when enlarged. Electronic submissions will now be accepted since floor plan changes to move slot machines or table games to other parts of the licensed facility do not typically necessitate fully renderings. The Board staff, however, reserve the authority to request paper submissions, which may be necessary in cases of a facility expansion or a relocation of large banks of machines or gaming pits. Since operators will no longer be required to regularly submit paper renderings of floor plans, the Board will need a yearly paper submission of the facility's gaming floor. Operators will file the yearly submission 12 months after the commencement of slot operations and every 12 months thereafter.

In subsection (a)(3), language was changed which allowed underage individuals to traverse the gaming floor. These individuals may use areas adjacent to the gaming floor to access amenities, such as restaurants and shops, but may not be on or cross the gaming floor. Operators shall include these areas in the depictions of their floor plans as well as the areas they have designated as smoking and nonsmoking.

The Board, at its July 29, 2010, meeting, delegated authority to the Executive Director to approve certain table game floor plan changes that involve less than 10% of the certificate holder's approved table games. Section 467a.1(c) codifies that delegation of authority.

Subsection (d) was amended to provide clarity to operators as to what information shall be submitted to the Board or Executive Director before the makeup or configuration of the gaming floor plan may be changed. Operators are now required to include in a petition or request the following: the distribution and collection routes for table game drop boxes and slot cash storage boxes; the table game and pit number or slot machine area affected; the type, location or number of slots or table games affected; updates to staffing plans; and updates to surveillance.

In accordance with administrative law, an operator may appeal a decision of Board staff to the Board. The Executive Director was therefore added in subsection (e).

Affected Parties

Slot machine licensees that elected to become certificate holders shall submit updated internal controls to reflect the amendments in this proposed rulemaking. Additionally, slot machine licensees that have not yet been issued a license, as well as successful future applicants, shall comply with the provisions in this proposed rulemaking.

The Board will experience increased regulatory demands to review the revised internal controls that are submitted by the current operators.

Fiscal Impact

Commonwealth. The Board will experience increased regulatory demands to review the new and revised internal controls submitted by the operators. These reviews will be conducted by existing Bureau of Gaming Operations staff so the Board does not expect that it will incur cost increases as a result of this proposed rulemaking.

Political subdivisions. This proposed rulemaking will not have direct fiscal impact on political subdivisions of this Commonwealth.

Private sector. The surveillance requirements in § 465a.9 will not impose additional costs on the current

certificate holders since surveillance systems have already been updated prior to the commencement of table game operations. The operators did experience significant costs for the following: the installation of new cameras and other surveillance equipment; the reconfiguration of the gaming floor and positioning and repositioning of new and existing cameras; and the addition of new employees for their surveillance departments. The Board projected the costs regarding surveillance requirements to be in the \$150,000 to \$300,000 range depending on the type of equipment purchased, the size of the gaming floor and the types of table games installed.

This proposed rulemaking will combine into one chapter two separate internal controls sections on slot operations and table game operations. Before authorized to commence table game operations, the certificate holder was required to expand and revise the scope of its internal controls. The revised costs were estimated at between \$20,000 and \$50,000 depending on the scope of the revisions and if the revisions were prepared internally. Although operators will again have to submit updated internal controls, those internal controls combine the separate sections that, for the most part, should already be written.

Certificate holders were also required to hire and train additional staff to operate table games. To satisfy the minimum staffing requirements in the temporary rulemaking, operators hired 12 key employees, 967 managers and supervisors, 3,264 dealers and 221 security guards. The cost for a gaming employee application is \$350 while the cost for key employee licenses is \$2,500. Although turnover in staff is expected, the Board does not have an estimate regarding the number of additional gaming and key employees an operator will be required to hire in the future to comply with the minimum staffing requirements in this proposed rulemaking.

General public. This proposed rulemaking will not have fiscal impact on the general public.

Paperwork Requirements

This proposed rulemaking requires certificate holders to draft and submit revised internal controls. Several reports were deleted and are no longer required to be filed as part of the operator's annual audit. Additionally, with this proposed rulemaking, operators will no longer be required to submit large scale gaming floor plans with every petition to modify the gaming floor but may now submit an electronic version.

Effective Date

The proposed rulemaking will become effective upon final-form publication in the *Pennsylvania Bulletin*. However, operators will have 90 days from the date of publication of the final-form rulemaking to submit their updated internal controls.

Public Comments

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking, within 30 days after the date of publication in the *Pennsylvania Bulletin*, to Susan Yocum, Assistant Chief Counsel, Pennsylvania Gaming Control Board, P. O. Box 69060, Harrisburg, PA 17106-9060, Attention: Public Comment on Regulation #125-145.

Contact Person

The contact person for questions about this proposed rulemaking is Susan Yocum, Assistant Chief Counsel, (717) 265-8356.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on May 3, 2011, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

GREGORY C. FAJT,
Chairperson

Fiscal Note: 125-145. No fiscal impact; (8) recommends adoption.

(Editor's Note: For a corrective amendment affecting § 465a.15, see 41 Pa.B. 2599 (May 21, 2011).)

(Editor's Note: For a corrective amendment affecting § 465a.30, see 41 Pa.B. 2610 (May 21, 2011).)

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart A. GENERAL PROVISIONS

CHAPTER 401a. PRELIMINARY PROVISIONS

§ 401a.3. Definitions.

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Certificate holder—A slot machine licensee that was awarded a certificate to operate table games.

* * * * *

Complimentary [service]—

(i) Any lodging, service or item, **including a cash and noncash gift or reimbursement**, which is provided directly or indirectly to an individual at no cost or at a reduced cost which is not generally available to the public.

(ii) The term includes [a] lodging provided to [a person] **an individual** at a reduced price due to the anticipated or actual gaming activities of that [person] **individual**. Group rates, including convention and government rates, shall be deemed generally available to the public.

(iii) **The term does not include points that are awarded to patrons of a licensed facility who are members of the licensed facility's player rewards program or credits for free slot play.**

* * * * *

Gaming employee—

(i) An employee of a slot machine licensee, including:

* * * * *

(P) Directors of the following departments:

(I) Food and Beverage.

(II) Facilities.

(III) Construction.

(ii) Employees of a licensed supplier, manufacturer [or], manufacturer designee, **gaming service provider or gaming related gaming service provider** whose duties [are]:

(A) Are directly involved with the repair, service or distribution of slot machines [and], **table game devices** or associated equipment sold or provided to a licensed facility within this Commonwealth.

(B) Affect or require contact with electronic gaming table or slot monitoring systems, casino management systems, player tracking systems and wide-area progressive systems for use or play in this Commonwealth, whether or not the individual is assigned to gaming operations in this Commonwealth.

(iii) Employees of a registered or certified gaming service provider, licensed manufacturer or manufacturer designee whose duties require the employee's presence on the gaming floor or in a restricted area of a licensed facility.

(iv) Gaming junket representatives.

(v) Other employees or individuals who the Board determines, after a review of the work being performed, require permits for the protection of the integrity of gaming.

* * * * *

Key employee—An individual who is:

* * * * *

(ii) [**Employed by a slot machine licensee, manufacturer licensee, or supplier licensee, whose duties affect or require contact with slot machines, slot monitoring systems, casino management systems, player tracking systems and wide-area progressive systems for use or play in this Commonwealth, whether or not the individual is assigned to gaming operations in this Commonwealth.**

(iii) [A sales representative seeking to sell slot machines, **table game devices** and associated equipment for use in this Commonwealth on behalf of a licensed manufacturer, manufacturer designee or supplier.

[(iv)] (iii) Employed in other positions which the Board will determine based on detailed analyses of the employee's duties or the job descriptions.

* * * * *

Subpart E. SLOT MACHINES AND ASSOCIATED EQUIPMENT

CHAPTER 461a. SLOT MACHINE TESTING AND CONTROL

§ 461a.1. Definitions.

The following words and terms, when used in this subpart, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Cash equivalents—Instruments with a value equal to United States currency or coin including **gaming chips and plaques, counter checks**, certified checks, cashiers checks, travelers' checks, money orders, gaming vouchers or coupons.

* * * * *

Count team—The group of employees of a slot machine licensee who are responsible for counting the contents of slot cash storage boxes and table game drop boxes.

* * * * *

Drop team—The group of employees of a slot machine licensee who [**participate in the transportation of**] are responsible for collecting and transporting slot cash storage boxes and table game drop boxes.

* * * * *

Fill—The distribution of gaming chips, coins and plaques to a gaming table to replenish the table inventory.

Finance department—The department that is responsible for the management of the financial and accounting activities relating to slot machines and table games being utilized [**on an approved gaming floor**] in a licensed facility.

Gaming day—A period of time not to exceed 24 hours corresponding to the beginning and ending times of gaming activities for the purpose of accounting reports and determination [**by the central control computer system**] of gross terminal and gross table game revenue.

Gaming voucher—An instrument that upon insertion into a [**slot machine**] bill validator entitles the patron inserting the gaming voucher to cashable or noncashable credits on a slot machine and cashable credits on an electronic gaming table corresponding to the value printed on the gaming voucher. A gaming voucher that contains noncashable credits may be used only for the purpose of slot machine gaming.

* * * * *

§ 461a.12. Progressive slot machines.

* * * * *

(g) A slot machine that offers either a new progressive jackpot or **undergoes a modification or RAM clear** of an existing progressive jackpot may not be made available for play by the public until the slot machine has been tested and certified by the Bureau of Gaming Laboratory Operations. **For purposes of this subsection, a modification includes any change in the software, hardware, including controllers, and any associated equipment that relates to progressive functionality.**

* * * * *

(i) Once an amount appears on a progressive meter, the probability of hitting the combination that will award the progressive jackpot may not be decreased unless the progressive jackpot has been won by a patron [**or the progressive jackpot**] has been transferred to another progressive slot machine or wide area progressive system or **has been** removed in accordance with subsection [(j)] (k).

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CHAPTER 465a. ACCOUNTING AND INTERNAL CONTROLS

§ 465a.1. Accounting records.

* * * * *

(c) The detailed, supporting and subsidiary records include:

* * * * *

(3) Records [**which**] that identify the handle, payout, actual win amounts and percentages, theoretical win amounts and percentages, and differences between theoretical and actual win amounts and percentages, for each slot machine and table game on a week-to-date, month-to-date and year-to-date basis.

* * * * *

§ 465a.2. Internal control systems and audit protocols.

(a) [**An applicant for, or holder of, a**] A slot machine [**license**] licensee shall submit to the Board and the Department a written description of its initial system of administrative and accounting procedures, including its internal control systems and audit protocols (collectively referred to as its “internal controls”) at least 90 days before [**gaming**] slot or table game operations are to commence. A written system of internal controls must include:

(1) Records of direct and indirect ownership in the [**proposed**] slot machine [**license**] licensee, its affiliates, intermediaries, subsidiaries or holding companies.

* * * * *

(8) Procedures to ensure compliance with section 1513 of the act (relating to political influence) to:

(i) Prevent political contributions.

(ii) Provide an annual certification that the slot machine licensee has conducted a good faith investigation that has not revealed any violations [**to the Board and to the Department of State’s Bureau of Communications, Elections and Legislation**] of section 1513 of the act.

(9) Procedures to ensure that the slot machine licensee’s employees comply with Chapter 435a (relating to employees).

(10) Other items the Board may request in writing to be included in the internal controls.

(b) A submission must be accompanied by the following:

(1) An attestation by the chief executive officer or other [**competent person**] delegated individual with a direct reporting relationship to the chief executive officer attesting that the officer believes, in good faith, that the submitted internal controls conform to the requirements of the act and this subpart.

(2) An attestation by the chief financial officer or other [**competent person**] delegated individual with a direct reporting relationship to the chief financial officer attesting that the officer believes, in good faith, that the submitted internal controls are designed to provide reasonable assurance that the financial reporting conforms to generally accepted accounting principles in the United States and complies with applicable laws and regulations, including the act and this subpart.

(c) The initial submission must also be accompanied by a report from an independent registered public accounting firm, licensed to practice in this Commonwealth. The report should express an opinion as to the effectiveness of the design of the submitted system of internal controls

over financial reporting and should further express an opinion as to whether the submitted system of internal controls materially deviates from the requirements of applicable laws and regulations, including the act and this subpart.

(d) A submission by a slot machine licensee **[or applicant]** must include, at a minimum, the following:

(1) Administrative controls which include the procedures and records that relate to the decision making processes leading to management's authorization of transactions.

(2) Accounting controls **[which have as their primary objectives the safeguarding of]** that **safe-guard** assets and revenues and **ensure** the reliability of financial records. The accounting controls must be designed to provide reasonable assurance that:

(i) Transactions or financial events which occur in the operation of a slot machine **or table game** are executed in accordance with management's general and specific authorization.

(ii) Transactions or financial events which occur in the operation of a slot machine **or table game** are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles in the United States, the act and this subpart.

(iii) Transactions or financial events which occur in the operation of a slot machine **or table game** are recorded in a manner which provides reliable records, accounts and reports, including the recording of cash and evidences of indebtedness, for use in the preparation of reports to the Board related to slot machines **or table games**.

(iv) Transactions or financial events which occur in the operation of a slot machine **or table game** are recorded to **ensure accountability for assets and to permit the proper and timely reporting[, and the calculation]** of gross terminal **and gross table game** revenue, fees and taxes**[, and to maintain accountability for assets]**.

(v) Access to assets is permitted only in accordance with management's general and specific authorization.

(vi) The recorded accountability for assets is compared with existing physical assets at reasonable intervals and **that** appropriate action is taken with respect to any discrepancies.

(3) Procedures and controls for ensuring, in accordance with section 1323 of the act (relating to the central control computer system), that each slot machine **and fully automated electronic gaming table** directly provides and communicates all required activities and financial details to the central control computer system as set by the Board.

(4) Procedures and controls for ensuring that all functions, duties and responsibilities are segregated and performed in accordance with sound financial practices by qualified personnel.

(5) Procedures and controls for ensuring, through the use of surveillance and security departments, that the licensed facility is secure during normal operations and during any emergencies due to malfunctioning equipment, loss of power, natural disaster or any other cause.

(e) The Board, in consultation with the Department, will review each initial submission made under subsection (a) and determine whether it conforms to the requirements of the act and this subpart and provides adequate

and effective controls to insure the integrity of the operation of slot machines **and table games** at a licensed facility. If the Board determines that the submission is deficient in any area, the Board will provide **[a]** written notice of the deficiency to the slot machine **[applicant or]** licensee and allow the slot machine **[applicant or]** licensee to submit a revision to its submission. A slot machine licensee is prohibited from commencing **[gaming] slot or table game** operations until its system of internal controls is approved by the Board.

(f) If a slot machine licensee intends to make a change or amendment to its system of internal controls, it shall submit the change or amendment electronically to the Bureau of Gaming Operations using the Amendment and Waiver Request Form posted on the Board's web site (www.pgcb.state.pa.us). A request for a change or amendment must include electronic copies of the attestations required under subsection (b)(1) and (2). The slot machine licensee shall also submit a written copy of the change or amendment and the required attestations to the Department. The slot machine licensee may implement the change or amendment on the 30th calendar day following the filing of a complete submission unless the slot machine licensee receives **[a] written notice [under subsection (g)]** tolling the change or amendment **in accordance with subsection (g) rejecting the change or amendment**.

(g) If during the 30-day review period in subsection (f), the Bureau of Gaming Operations preliminarily determines that a procedure in a submission contains **[a substantial and material]** an insufficiency likely to **[have a direct and materially adverse impact on]** **negatively affect** the integrity of slot **or table game** operations or the control of gross terminal **or gross table game** revenue, the Bureau of Gaming Operations, by written notice to the slot machine licensee, will:

(1) Specify the nature of the insufficiency and, when possible, an acceptable alternative procedure.

(2) Direct that the 30 calendar day review period in subsection (f) be tolled and that any internal controls at issue not be implemented until approved under subsection (i).

(h) Examples of submissions that may **[be determined to]** contain **[a substantial and material]** an insufficiency likely to **[have a direct and materially adverse impact on]** **negatively affect** the integrity of slot **or table game** operations or the control of gross terminal **or gross table game** revenue may include the following:

(1) Submissions that fail to provide an audit trail sufficient to permit the review of gaming operations or the reconstruction of gross terminal **or gross table game** revenue transactions.

(2) Submissions that fail to provide for the segregation of incompatible functions so that no employee is in a position **[both]** to **both** commit an error or **[to]** perpetrate a fraud and to conceal the error or fraud in the normal course of the employee's duties.

(3) Submissions that do not include forms or other materials referenced in the submission or required by the act or this part **[that are essential elements of the internal controls]**.

(4) Submissions that would implement operations or accounting procedures not authorized by the act or this part.

(5) Submissions that are dependent upon the use of equipment or related devices or software not approved by the Board, unless the submissions are required as part of an authorized test of the equipment or related device or software.

(i) When a change or amendment has been tolled under subsection (g), the slot machine licensee may submit a revised change or amendment within 30 days of receipt of the written notice from the Bureau of Gaming Operations. The slot machine licensee may implement the revised change or amendment upon receipt of written notice of approval from the Board's Executive Director or on the 30th calendar day following the filing of the revision unless **[it] the slot machine licensee receives written notice [under subsection (g)] tolling the change or amendment in accordance with subsection (g) or written notice [of disapproval] from the Board's Executive Director rejecting the change or amendment.**

* * * * *

§ 465a.3. Forms, records and documents.

(a) Information required by this part to be placed on any form, record or document and in stored data shall be recorded on the form, record or document and in stored data in ink or other permanent **[form] manner.**

(b) Whenever duplicate or triplicate copies are required of a form, record or document, the original, duplicate and triplicate copies must have the name of the **[recipient] department** receiving the copy preprinted on the bottom of that copy so as to differentiate between the copies.

* * * * *

§ 465a.5. Annual audit; other reports; suspicious activity and currency transaction reporting.

(a) A slot machine licensee shall, at its own expense, **[cause] have** its annual financial statements **[to be]** audited in accordance with generally accepted auditing standards (when applicable, the Standards of the Public Company Accounting Oversight Board (United States)) by an independent certified public accountant or, when appropriate, an independent registered public accounting firm, licensed to practice in this Commonwealth.

(b) The annual financial statements shall be prepared on a comparative basis for the current and prior fiscal year and present **the** financial position and results of operations in conformity with generally accepted accounting principles in the United States.

(c) **[The financial statements required by this section must include a footnote reconciling and explaining any differences between the financial statements included in any annual report filed in conformity with § 465a.4 (relating to standard financial and statistical reports) and the audited financial statements. The footnote must, at a minimum, disclose the effect of adjustments on:**

- (1) Revenue from the operation of slot machines.
- (2) Slot machine revenue net of expenses for complimentary services or items.
- (3) Total costs and expenses.
- (4) Income before extraordinary items.

(5) Net income.

(d) **[One copy of the audited financial statements, together with any management letter or report prepared thereon by the slot machine licensee's independent certified public accountant or independent registered public accounting firm, shall be filed with the Bureau of Licensing not later than [60] 90 days after the end of the licensee's fiscal year.**

[(e) The slot machine licensee shall require the independent certified public accountant or independent registered public accounting firm auditing its financial statements to render the following additional reports:

(1) **A report on material weaknesses or significant deficiencies in the system of internal controls noted in the course of the examination of the financial statements.**

(2) **A report expressing the opinion of the independent certified public accountant or independent registered public accounting firm as to the adequacy of the slot machine licensee's system of internal controls over financial reporting based upon the description of the system of internal controls approved for the slot machine licensee under § 465a.2 (relating to internal control systems and audit protocols). When appropriate, the report should make specific recommendations regarding improvements in the system of internal controls.**

(f) **The slot machine licensee shall prepare a written response to the independent certified public accountant's or independent registered public accounting firm's reports required by subsection (e)(1) and (2). The response must indicate, in detail, corrective actions taken. The slot machine licensee shall submit a copy of the response to the Bureau of Licensing within 90 days of receipt of the reports.**

(g) **[(d) The slot machine licensee shall file with the Bureau of Licensing one copy of [the reports required by subsection (e), and one copy of] any other reports on internal controls, administrative controls, or other matters relative to the slot machine licensee's accounting or operating procedures rendered by the licensee's independent certified public accountant or independent registered public accounting firm within 120 days following the end of the licensee's fiscal year or upon receipt, whichever is earlier.**

[(h)] (e) If the slot machine licensee, or a licensed holding company, licensed intermediary or licensed principal entity of the slot machine licensee, is publicly held, the slot machine licensee shall submit a notice to the Bureau of Licensing when it files any report, including forms S-1, 8-K, 10-Q, 10-K, proxy or information statements and registration statements, required to be filed by the slot machine licensee, licensed holding company, licensed intermediary or licensed principal entity of the slot machine licensee, with the SEC or other domestic or foreign securities regulatory agency. The notice must include a listing of the reports or forms filed and the date of the filing. The notice to the Bureau of Licensing shall be made within 10 business days of the time of filing with the applicable Commission or regulatory agency.

[(i)] (f) If an independent certified public accountant or independent registered public accounting firm [who] that was previously engaged as the principal accountant

to audit the slot machine licensee's financial statements resigns or is dismissed as the slot machine licensee's principal accountant, or another independent certified public accountant or independent registered public accounting firm is engaged as principal accountant, the slot machine licensee shall file a report with the Bureau of Licensing within 10 **business** days following the end of the month in which the event occurs, setting forth the following:

(1) The date of the resignation, dismissal or engagement.

(2) Whether in connection with the audits of the 2 most recent years preceding a resignation, dismissal or engagement there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure or auditing scope or procedure, including a description of each disagreement. The disagreements to be reported include those resolved and those not resolved.

(3) Whether the principal accountant's report on the financial statements for either of the past 2 years contained an adverse opinion or disclaimer of opinion or was qualified. The nature of the adverse opinion, disclaimer of opinion or qualification shall be described.

[(j)] (g) The slot machine licensee shall request the former accountant to furnish to the slot machine licensee a letter addressed to the Bureau of Licensing stating whether he agrees with the statements made by the slot machine licensee in response to subsection [(i)(2)] (f)(2). The letter shall be filed with the Bureau of Licensing as an exhibit to the report required by subsection [(i)(2)] (f).

[(k)] (h) The slot machine licensee shall file with BIE a copy of any Suspicious Activity Report-Casino (SARC) [it] **that the slot machine licensee** is required to file under 31 CFR 103.21 (relating to reports by casinos of suspicious transactions). Each SARC shall be filed with BIE concurrently with the Federal filing.

[(l)] (i) A slot machine licensee, director, officer, employee or agent who reports a suspicious activity under subsection [(k)] (h) may not notify any person involved in the suspicious activity that the suspicious activity has been reported.

[(m)] (j) The slot machine licensee shall file with BIE a copy of any Currency Transaction Report by Casino (CTRC) [it] **that the slot machine licensee** is required to file under 31 CFR 103.22 (relating to reports of transactions in currency). Each CTRC shall be filed with BIE concurrently with the Federal filing.

[(n)] (k) Prior to commencing gaming operations, a slot machine licensee shall file with the Bureau of Gaming Operations, in a manner [to be] prescribed by the Bureau of Gaming Operations, a copy of [its] **the slot machine licensee's** compliance program required under 31 CFR 103.64 (relating to special rules for casinos). Thereafter, a slot machine licensee shall file with the Bureau of Gaming Operations any amendment or supplement to [its] **the** compliance program on or before the effective date of the amendment or supplement.

§ 465a.6. Retention, storage and destruction of books, records and documents.

* * * * *

(b) Original books, records and documents pertaining to the operation of a licensed facility shall be:

* * * * *

(3) [**Kept immediately**] **Made** available for inspection by agents of the Board, the Department and the Pennsylvania State Police during all hours of operation.

* * * * *

(c) Original books, records and documents shall be retained by a slot machine licensee for a minimum of 5 years with the following exceptions:

(1) Documentation with regard to gaming vouchers reported to the Board as possibly counterfeit, altered or tampered with, should be retained for a minimum of 2 years.

(2) Coupons entitling patrons to cash or slot machine credits, whether unused, voided or redeemed shall be retained for a minimum of 6 months.

(3) Voided gaming vouchers and gaming vouchers redeemed at a location other than a slot machine shall be retained for a minimum of [**6 months**] **30 days**.

(4) Gaming vouchers redeemed at a slot machine **or fully automated electronic gaming table** shall be retained for a minimum of 7 days.

(d) A slot machine licensee may request, in writing, that the [**Bureau of Gaming Operations**] **Board's Executive Director** approve a location outside the licensed facility to store original books, records and documents. The request must include the following:

* * * * *

§ 465a.7. Complimentary services or items.

(a) A slot machine licensee shall develop, maintain and apply adequate internal controls over the authorization and issuance of complimentary services or items as defined in § 401a.3 (relating to definitions). The slot machine licensee shall [**maintain a written record of the internal controls under this section and the specific employees to whom they apply. Slot machine licensees are not required to obtain Board approval of the internal controls under this section**] **submit internal controls for complimentary services and items to the Board for approval under § 465a.2 (relating to internal control systems and audit protocols).**

(b) The internal controls must include the following:

(1) The procedures by which the slot machine licensee delegates to its employees the authority to approve the issuance of complimentary services or items.

(2) The procedures by which the slot machine licensee establishes [**or**], modifies [**any conditions**] or limits [**, to**] delegated authority, including limits based on relationships between the authorizer and recipient.

(3) [**The provisions employed to insure the auditing of complimentary services or items.**] **A matrix of job titles authorized to issue complimentary services or items and what complimentary services and items or the maximum dollar value of complimentary services or items each job title is authorized to issue.**

(4) The procedures to be followed by the slot machine licensee's internal audit department to audit the issuance of complimentary services or items.

(c) Complimentary services or items shall be recorded as follows:

(1) A complimentary service or item provided directly to a patron in the normal course of a slot machine licensee's business shall be recorded at an amount based upon the full retail price normally charged for the service or item by the licensee.

(2) A complimentary service or item not offered for sale to a patron in the normal course of a slot machine licensee's business but provided directly by the slot machine licensee shall be recorded at an amount based upon the actual cost to the slot machine licensee of providing the service or item.

(3) A complimentary service or item provided directly or indirectly to a patron on behalf of a slot machine licensee by a third party not affiliated with the slot machine licensee shall be recorded at an amount based upon the actual cost to the **slot machine** licensee of having the third party provide the service or item.

(4) A complimentary service or item provided directly or indirectly to a patron on behalf of a slot machine licensee by a third party who is affiliated with the **slot machine** licensee shall be recorded by the **slot machine** licensee in accordance with this section as if the affiliated third party were the licensee.

(d) If a slot machine licensee provides complimentary cash and noncash gifts **or reimbursements** recorded at a value of \$10,000 or more to a **[person] patron** and the **[person's] patron's** guests within a consecutive 5-day period, the slot machine licensee shall record the reason why the gifts were provided, and maintain the records **and make them** available for inspection by the Board and the Pennsylvania State Police. When the reason complimentary cash and noncash gifts were provided involves the **[person's] patron's** player rating, that rating must be based upon an evaluation of the amount and frequency of play by the **[person] patron** as recorded in the slot machine licensee's player rating system. For the purposes of this section, "guest" means any **[person] patron** who receives complimentary services or items as a result of his relationship with the **[person] patron** receiving the primary complimentary services or items.

(e) A slot machine licensee shall submit to **[BIE] the Bureau of Casino Compliance** a report listing each **[person] patron** who, under subsection (d), received \$10,000 or more in complimentary cash and noncash gifts **or reimbursements** within a consecutive 5-day period ending during the preceding month. The report shall be filed by the last day of the month following the month in which the complimentary cash and noncash gifts **or reimbursements** were issued and include the total amount of complimentary cash or noncash gifts **or reimbursements** provided to each **[person] patron** broken down into categories for food and beverage, hotel accommodations, travel, **reimbursements** and other services.

§ 465a.8. Licensed facility.

(a) A licensed facility must be equipped with a surveillance system configured and approved in accordance with §§ 465a.9 and 465a.10 (relating to **[the]** surveillance system; surveillance department control; surveillance department **[restriction] restrictions**; and surveillance system recording formats). Except as otherwise provided

in subsection (d)(1), the surveillance system shall be under the exclusive control of the surveillance department.

(b) Restricted areas within the licensed facility shall be designated for the repair and storage of slot machines **and table games**. Areas approved and utilized within the licensed facility for slot machine **and table game** repair shall be covered by the approved surveillance system.

(c) Emergency exits from the gaming floor and any other doors designated by the Bureau of **[Gaming Operations] Casino Compliance** must be equipped with an audible alarm system that produces a loud, distinguishable warning sound, discernable in the vicinity of the exit, whenever the emergency door is opened. The alarm system shall be designed to require deactivation and reset by means of a key. The key is to be maintained by the security department.

(d) Slot machine licensees shall, in accordance with section 1207(13) of the act (relating to regulatory authority of board), provide for and maintain onsite facilities for use by the Board, the Department and the Pennsylvania State Police for the purpose of carrying out their respective responsibilities (collectively referred to as the "onsite facilities"). The onsite facilities must be located in the same building as the gaming floor, in locations approved by the Bureau of **[Gaming Operations] Casino Compliance** and include suitable office space, equipment, partitions and supplies to meet the continuing needs of the Board, the Department and the Pennsylvania State Police at the facility including the following:

* * * * *

(2) An area for the detention of individuals detained or taken into custody by the Pennsylvania State Police. The detention area must be located within the onsite facilities and consist of a bench or other apparatus which is permanently affixed to the wall or floor to which the **[person] individual** in custody can be handcuffed with as little discomfort to that **[person] individual** as is possible under the circumstances.

* * * * *

(8) Signs indicating the location of the Board's office. The size, location and design of the signs must be approved by the Bureau of **[Gaming Operations] Casino Compliance**.

* * * * *

§ 465a.9. Surveillance system; surveillance department control; surveillance department restrictions.

(a) The surveillance system of a licensed facility must comply with 18 Pa.C.S. Chapter 57 (relating to Wiretapping and Electronic Surveillance Control Act) and section 1522 of the act (relating to interception of oral communications) and shall be submitted to and approved by the Board under § 465a.2 (relating to internal control systems and audit protocols). The Bureau of **Casino Compliance** will review surveillance system specifications, inclusive of the camera configuration and any changes or modifications to the system specifications, to determine whether the system provides the adequate and effective surveillance of activities inside and outside the licensed facility mandated by section 1207(11) of the act (relating to regulatory authority of board). A slot machine licensee may not commence gaming operations until its surveillance system is approved by the Board.

(b) A slot machine licensee shall at all times provide the Board and the Pennsylvania State Police with access to its surveillance system and its transmissions. Each member of its surveillance department shall comply with any request made by the Board or the Pennsylvania State Police to:

(1) Use, as necessary, any surveillance monitoring room in the licensed facility.

(2) Display on the monitors in the monitoring room any event capable of being monitored by the surveillance system.

(3) Make a video and, if applicable, audio recording of, and take a still photograph of, any event capable of being monitored by the surveillance system.

(i) The slot machine licensee shall preserve and store each recording or photograph in accordance with the directions of the Board or the Pennsylvania State Police.

(ii) The Board and the Pennsylvania State Police shall have unfettered access to each recording or photograph [and, at]. At the request of the Board or Pennsylvania State Police, access to a recording or photograph may be denied to a particular employee or department of the slot machine licensee.

(c) The surveillance system required in this section must include [the following]:

(1) Light sensitive cameras with lenses of sufficient magnification and 360° pan, tilt and zoom capabilities, without camera stops, to allow the operator [to read information on a slot machine reel strip and credit meter and equipped with 360° pan, tilt and zoom capabilities, without camera stops,] to clandestinely monitor in detail and from various vantage points[, including] the following:

(i) The gaming conducted at the slot machines and fully automated electronic gaming tables in the licensed facility with sufficient clarity to read information on a reel strip or electronic table layout and the credit meter.

(ii) The gaming conducted at each table game that is not a fully automated electronic gaming table in the licensed facility with sufficient clarity to identify patrons and dealers and sufficient coverage to simultaneously view the table and determine the configuration of wagers, card, dice and tile values and game outcomes.

(iii) The operations conducted at and in the [cashiers'] main cage and any satellite cage.

[(iii)] (iv) The operations conducted at automated bill breaker machines, automated gaming voucher and coupon redemption machines, automated jackpot payout machines and automated teller machines.

[(iv)] (v) The count processes conducted in the count room.

[(v)] (vi) The movement of cash, gaming chips and plaques, tip boxes, table game drop boxes and slot cash storage boxes within the licensed facility.

[(vi)] (vii) The entrances and exits to the licensed facility, the gaming floor and the count room.

(viii) Any other activity or areas designated by the Bureau of Casino Compliance.

(2) The following number of cameras dedicated to table games that are not fully automated electronic gaming tables:

(i) At least one stationary camera for each table game offered by the licensed facility except Craps, Baccarat, Roulette and Big Six Wheel.

(ii) At least two stationary cameras for each Craps table, with one camera covering each end of the table.

(iii) At least two stationary cameras for each Baccarat table, with one camera covering each end of the table.

(iv) At least two stationary cameras for each Roulette table, with one camera covering the Roulette wheel and one camera covering the Roulette table layout.

(v) At least two stationary cameras for each Big Six Wheel, with one camera covering the Big Six Wheel and one camera covering the Big Six Wheel table layout.

(3) Additional cameras as required by the Bureau of Casino Compliance. The additional cameras may include cameras with 360° pan, tilt and zoom capabilities.

(4) Video recording equipment which, at a minimum, must:

(i) Permit the preservation and viewing of a clear copy of the transmission produced by any camera connected to the surveillance system.

(ii) Be capable of superimposing the time and date of the transmission on each recording made by the video recording equipment.

(iii) Enable the operator to identify and locate, through the use of a meter, counter or other device or method, a particular event which was recorded.

[(3)] (5) Recording media which shall be replaced immediately upon the manifestation of significant degradation in the quality of the images or sound, if applicable, recorded thereon. If videotape is utilized, it may be used for no more than 1 year.

[(4)] (6) One or more monitoring rooms in the licensed facility which shall be staffed by employees of the slot machine licensee's surveillance department who shall at all times monitor the activities enumerated in [paragraph] paragraphs (1), (2) and (3). Each monitoring room shall be equipped with or serviced by:

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[(5)] (7) An emergency power system, tested at intervals not to exceed 6 months, which can be used to operate the surveillance system in the event of a power failure.

[(6)] (8) A preventive maintenance program, implemented by technicians assigned to the surveillance department, which insures that the entire surveillance system is maintained in proper working order and that the covers over the cameras are cleaned in accordance with a routine maintenance schedule.

(d) Areas subject to camera coverage under this section must contain continuous lighting that is of sufficient quality to produce clear video recordings and still picture reproductions.

(e) A slot machine licensee's surveillance system must continuously record[, **during the times and in the manner indicated in this subsection,**] transmissions from cameras used to observe the following locations, **[persons] individuals**, activities **[or]** and transactions:

(1) Each transaction conducted on the gaming floor or at a **[cashiers'] main** cage or satellite cage. Coverage of the transaction must include, but not be limited to, recording transmissions from cameras used to observe the face of each patron transacting business at a **[cashiers'] main** cage or satellite cage from the direction of the cashier.

(2) **The gaming conducted at all slot machines and table games.**

(3) The main bank, vault and other areas specified **[in writing]** by the Board.

[(3)] (4) The collection of **tip boxes**, slot cash storage boxes **and table game drop boxes.**

(5) The distribution of cards, dice and tiles to gaming pits.

(6) The inspection of cards, dice and tiles in the gaming pits and at the gaming tables.

(7) The retrieval of cards, dice and tiles from the gaming pits at the end of the gaming day and the delivery of the cards, dice and tiles to the location designated and approved by the Bureau of Casino Compliance for the inspection, cancellation, destruction or, if applicable, packaging for reuse.

[(4)] (8) The count procedures conducted in the count room.

[(5)] (9) Any armored car collection or delivery.

[(6)] (10) The operations conducted at automated bill breaker machines, automated gaming voucher and coupon redemption machines, automated jackpot payout machines and automated teller machines. **Coverage must include a camera contained within the machine that records the face of each patron transacting business at the machine.**

[(7)] (11) The entrances and exits to the licensed facility, the gaming floor, the main bank, the vault, the **[cashiers'] main** cage and any satellite cage and the count room.

[(8) The gaming conducted at slot machines.]

(f) Slot machine licensees shall maintain a surveillance log of all surveillance activities in the monitoring room. The log shall be maintained by monitoring room personnel in a book with bound numbered pages that cannot be readily removed or shall be maintained in an electronic format which has an audit function that prevents modification of information after the information has been entered into the system. The log shall be stored and retained in accordance with § 465a.6 (relating to retention, storage and destruction of books, records and documents). The following information shall be recorded in a surveillance log:

(1) The date and time each surveillance event commenced.

(2) The name and Board issued credential number of each **[person] individual** who initiates, performs or supervises the surveillance.

(3) When suspicious activity, suspected or alleged regulatory violations or suspected or alleged criminal activity is involved, the reason for the surveillance, including the name, if known, alias or description of each individual being monitored, and a brief description of the activity in which the **[person] individual** being monitoring is engaged. This entry should also include a notation of the reading on the meter, counter or device specified in subsection **[(c)(2)(iii)] (c)(4)(iii)** that identifies the point on the video recording at which the event was recorded.

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(j) The surveillance recordings required under subsection (e) (1), **[(5), (6) and (7)] (8), (9), (10) and (11)** shall be retained for a minimum of 30 days. All other surveillance recordings shall be retained for a minimum of 7 days. Surveillance recordings shall be made available for review upon request by the Board or the Pennsylvania State Police.

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(m) **[In accordance with § 465a.2(a)(5), each slot machine licensee shall be required to submit, for Board approval, a minimum staffing submission with regard to its surveillance monitor rooms. The minimum staffing submission must consider the size and layout of the licensed facility as well as the number of slot machines and must at all times provide for surveillance of activities inside and outside the licensed facility. A slot machine licensee may not implement a change or amendment in its surveillance monitor room minimum staffing submission without prior Board approval of the change or amendment.]** In accordance with § 465a.11(b)(1) (relating to slot machine licensee's organization; jobs compendium), each slot machine licensee shall submit for Board approval a minimum surveillance room staffing plan. The surveillance room staffing plan must provide for the continuous monitoring of activities inside and outside the licensed facility taking into account the size and layout of the licensed facility as well as the number and location of slot machines and table games on the gaming floor. A slot machine licensee may not implement a change to its surveillance room staffing plan without prior approval of the Board.

(n) A slot machine licensee's surveillance department employees shall be independent of all other departments.

(o) A present or former surveillance department employee may not accept employment as a key employee or gaming employee with the same slot machine licensee for whom he was previously employed as a surveillance department employee unless 1 year has passed since the former surveillance department employee worked in the surveillance department. The present or former surveillance department employee may file a written petition as required under § 493a.4 (relating to petitions generally) requesting the Board to waive this restriction and permit the employment of a present or former surveillance department employee in a particular position. The Board may grant or deny the waiver upon consideration of the following factors:

(1) Whether the former surveillance department employee will be employed in a department or area of operation that the surveillance department monitors.

(2) Whether the surveillance and security systems of the slot machine licensee will be jeopardized or compromised by the employment of the former surveillance department employee in the particular position.

(3) Whether the former surveillance department employee's knowledge of the procedures of the surveillance department would facilitate the commission by any **[person] individual** of irregularities or illegal acts or the concealment of any actions or errors.

(p) Entrances to the surveillance monitoring rooms may not be visible from the gaming floor. **[A person] An individual** entering the surveillance monitoring room who is not an employee of the surveillance department assigned to the monitoring room on the particular shift corresponding to the time of entry shall sign a monitoring room entry log upon entering the monitoring room. The monitoring room entry log shall be:

(1) Maintained in the monitoring room by monitoring room personnel and retained in accordance with § 465a.6.

(2) Maintained in a book with bound numbered pages that cannot be readily removed or shall be maintained in an electronic format which has an audit function that prevents modification of information after the information has been entered into the system.

(3) Signed by each **[person] individual** entering the monitoring room, with each entry containing the following:

(i) The date and time of each entry.

(ii) The entering **[person's] individual's** name, Board-issued credential number and department or affiliation.

(iii) The reason for entering the monitoring room.

(iv) The name of the **[person] individual** authorizing the **[person's]** entry into the monitoring room.

(v) The date and time of exiting the monitoring room.

(4) Made available for inspection by the Board and the Pennsylvania State Police.

§ 465a.11. Slot machine licensee's organization; **jobs compendium**.

(a) Slot machine licensees' systems of internal controls must, in accordance with section 1322 of the act (relating to slot machine accounting controls and audits) and § 465a.2 (relating to internal control systems and audit protocols), include organization charts depicting segregation of functions and responsibilities and descriptions of the duties and responsibilities for each position shown on each organization chart. Slot machine licensees shall be permitted, except as otherwise provided in this section, to tailor organizational structures to meet the needs or policies of a particular management philosophy. A slot machine licensee's organization charts must provide for:

(1) A system of personnel and chain of command which permits management and supervisory personnel to be held accountable for actions or omissions within their areas of responsibility.

(2) The segregation of incompatible functions, duties and responsibilities so that no employee is in a position **[both] to both** commit an error or **[to]** perpetrate a fraud and to conceal the error or fraud in the normal course of the employee's duties.

(3) The performance of all functions, duties and responsibilities in accordance with sound financial practices by qualified personnel.

(4) The areas of responsibility which are not so extensive as to be impractical for one person to monitor.

(5) A chief executive officer. For the purposes of this section, a "chief executive officer" means the **[person] individual** located at the licensed facility who is ultimately responsible for the daily conduct of the slot machine licensee's gaming business regardless of the form of business association of the slot machine licensee **[or applicant]** or the particular title which that **[person] individual** or any other **[person] individual** holds. A slot machine licensee's organization chart may also include an assistant chief executive officer who is responsible for the daily conduct of the slot machine licensee's gaming business during the chief executive officer's absence. However, the assistant chief executive officer may not be the department head of one of the departments required **[by] under** subsection (b). Each supervisor of a department required **[by] under** subsection (b) shall report directly to the chief executive officer or assistant chief executive officer of the slot machine licensee regarding administrative matters and daily operations. The slot machine licensee's organization charts must designate which positions, in the absence of the chief executive officer and the assistant chief executive officer, shall be designated as having responsibility for the daily conduct of the slot machine licensee's gaming business.

(b) A slot machine licensee's system of internal controls must also include, at a minimum, the following departments and supervisory positions, each of which must be categorized as mandatory and must cooperate with, yet perform independently of, other mandatory departments and supervisory positions of the slot machine licensee. Notwithstanding the foregoing, a department or supervisor of a slot machine licensee that is not required or authorized by this section may operate under or in conjunction with a mandatory department or supervisor provided the organizational structure is consistent with the standards contained within the act and subsection (a). Mandatory departments and supervisory positions are:

(1) A surveillance department supervised by **[a person] an individual** located at the licensed facility who functions, for regulatory purposes, as the director of surveillance. The director of surveillance shall be subject to the reporting requirements specified in subsection (c) and shall be licensed as a key employee. The surveillance department shall be responsible for the following:

(i) The clandestine surveillance of the operation of, and gaming conducted at, slot machines **and table games**.

(ii) The clandestine surveillance of the operation of automated bill breaker, gaming voucher, coupon redemption and jackpot payout machines.

(iii) The clandestine surveillance of the operation of the **[cashiers'] main cage, Poker room cage** and any satellite cage.

(iv) The video recording of activities in the count room and the video recording of movements of cash **[and], slot cash storage boxes and table game drop boxes**.

(v) **The clandestine surveillance of areas used for the storage of gaming chips, plaques, cards, dice, Sic Bo shakers, Roulette balls, Pai Gow tiles and other equipment used to conduct table games.**

(vi) The detection of cheating, theft, embezzlement and other illegal activities within the licensed facility.

[(vi)] (vii) The detection of the presence of any [**person**] **individual** who may or is required to be excluded or ejected from the licensed facility under section 1514 or 1515 of the act (relating to regulation requiring exclusion of certain persons; and repeat offenders excludable from licensed gaming facility) and Chapters 511a and 513a (relating to persons required to be excluded; and underage gaming), or is self excluded from the gaming floor and gaming activities at all licensed facilities under section 1516 of the act (relating to list of persons self excluded from gaming activities) and Chapter 503a (relating to self exclusion).

[(vii)] (viii) The video recording of those locations, [**persons**] **individuals**, activities or transactions required under § 465a.9(e) (relating to surveillance system; surveillance department control; surveillance department [**restriction**] **restrictions**) and of any illegal and unusual activities monitored by the surveillance department.

[(viii)] (ix) The provision of immediate notice to supervisors designated in the internal controls, the casino compliance representatives and the Pennsylvania State Police at the licensed facility upon detecting, and also upon commencing video recording of, [**a person**] **an individual** who is engaging in or attempting to engage in, or who is suspected of cheating, theft, embezzlement, a violation of this part or other illegal activities, including [**a person**] **an individual** who is required to be excluded or ejected from the licensed facility under section 1514 of the act, who may or is required to be excluded or ejected from the licensed facility under section 1514 or 1515 of the act and Chapters 511a or 513a or is self-excluded from the gaming floor and gaming activities at all licensed facilities under section 1516 of the act and Chapter 503a.

[(ix)] (x) The clandestine surveillance of any slot computer system or equipment designated for coverage by the Board in conjunction with the approval of a slot machine system, including a slot monitoring system, **electronic gaming table system**, casino management system, wide area progressive system, gaming voucher system and any communication equipment with the central control computer.

(xi) **The installation, maintenance and repair of the surveillance system equipment used by the surveillance department.**

(xii) **The submission of a surveillance staffing plan as part of the slot machine licensee's internal controls detailing the minimum staffing and the manner in which the responsibilities of this subsection shall be met.**

(2) An internal audit department supervised by [**a person**] **an individual** located at the licensed facility who functions, for regulatory purposes, as the director of internal audit. The director of internal audit shall be subject to the reporting requirements specified in subsection (c) and shall be licensed as a key employee.

(3) An information technology department supervised by a person located at the licensed facility who functions, for regulatory purposes, as the information technology director. The information technology director shall be licensed as a key employee and be responsible for the

quality, reliability and accuracy of all slot computer systems used by the slot machine licensee regardless of whether data, software or systems are located within or outside the licensed facility. The information technology director shall further be responsible for the security and physical integrity of, and the accountability and maintenance of, the following:

(i) Access codes and other security controls used to insure limited access to computer software and the system wide reliability of data.

(ii) Computer tapes, disks or other electronic storage media containing data relevant to the slot machine licensee's operations.

(iii) Computer hardware, communications equipment and software used in the conduct of the slot machine licensee's operations.

(iv) The computerized slot monitoring system utilized by the slot machine licensee. [**In specific, the**] **The** information technology director shall ensure that:

(A) Slot machines **and fully automated electronic gaming tables** located on the gaming floor are connected electronically to the slot machine licensee's computerized slot monitoring system and to the Commonwealth's central control computer in accordance with section 1323 (relating to central control computer system).

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(D) Procedures and controls are in place that define and limit interaction between both the slot operations department and finance department and the computerized slot monitoring system including access to system menus, the establishment of slot machine **and fully automated electronic gaming table** profile parameters, and the ability of each department to access, delete, create or modify information contained in the slot monitoring system.

(4) [**A**] **Except as provided in paragraph (8), a** slot operations department supervised by [**a person**] **an individual** located at the licensed facility who functions, for regulatory purposes, as the director of slot operations. The director of slot operations shall be licensed as a key employee and be responsible for the operation of, and conduct of gaming at, slot machines **and fully automated electronic gaming tables** within the licensed facility.

(5) A security department supervised by [**a person**] **an individual** located at the licensed facility who functions, for regulatory purposes, as the director of security. The director of the security department shall be licensed as a key employee and be responsible for the overall security of the licensed facility including the following:

(i) The physical safety of [**natural persons**] **individuals**.

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(vii) The identification and removal of any [**person**] **individual** who is required to be excluded or ejected from the licensed facility under section 1514 of the act, who may be excluded or ejected from the licensed facility under section 1515 of the act or is self excluded from the gaming floor and gaming activities at all licensed facilities under section 1516 of the act.

(viii) The performance of the duties and responsibilities required under the system of internal controls submitted and approved under § 465a.2.

(ix) The provision of immediate notice to the Pennsylvania State Police upon detecting the presence in the licensed facility of a person possessing a weapon in violation of § 465a.13 (relating to possession of weapons within a licensed facility).

(x) The provision of immediate notice to supervisors designated in the internal controls and the casino compliance representatives and the Pennsylvania State Police at the licensed facility upon detecting any **[person] individual** who is engaging in or attempting to engage in, or who is suspected of cheating, theft, embezzlement, a violation of this part or other illegal activities.

(xi) The provision of immediate notice to supervisors designated in the internal controls and the casino compliance representatives and the Pennsylvania State Police at the licensed facility upon detecting any **[person] individual** who is required to be excluded or ejected from the licensed facility **[who may or is required to be excluded or ejected from the licensed facility]** under section 1514 or 1515 of the act and Chapter 511a or 513a or is self-excluded from the gaming floor and gaming activities at all licensed facilities under section 1516 of the act and Chapter 503a.

(6) A finance department supervised by **[a person] an individual** located at the licensed facility who functions, for regulatory purposes, as the director of finance. The director of finance shall be licensed as a key employee and shall be responsible for all finance functions including the preparation and control of records and data, the control of stored data, the control of unused forms, the accounting for and comparison of operational data and forms, and the control and supervision of the **[cashiers'] inventory of gaming chips, the issuance of credit, the main cage, Poker room cages, satellite cages and the count room. The employee responsible for the supervision and issuance of credit shall report directly to the director of finance. [In addition to the requirement that the director of finance be licensed as a key employee, the]** The supervisor of the **[cashiers']** cage shall, on all shifts, be **[licensed]** permitted as a **[key]** gaming employee.

(7) Except as provided in subsection (8), a slot machine licensee that has a certificate to operate table games shall have a table games department supervised by an individual located at the licensed facility who functions, for regulatory purposes, as the director of table games. The director of table games shall be licensed as a key employee and be responsible for all table game functions including the inventory of table game equipment.

(8) In lieu of separate slot and table games departments, a slot machine licensee may elect to have a gaming department supervised by an individual located at the licensed facility who functions, for regulatory purposes, as the director of gaming. The director of gaming shall be licensed as a key employee and be responsible for the overall operation and conduct of gaming at slot machines and table games within the licensed facility. A slot machine licensee may also elect to have a director of table games and a director of slot operations who report to the director of gaming.

(c) The supervisors of the surveillance and internal audit departments required by subsection (b) shall report directly to one of the following persons or entities regard-

ing matters of policy, purpose, responsibility and authority, which persons or entities shall also control the hiring, termination and salary of each supervisor:

(1) The independent audit committee of the slot machine licensee's board of directors.

(2) The independent audit committee of the board of directors of any holding or intermediary company of the slot machine licensee which has authority to direct the operations of the slot machine licensee.

(3) The senior surveillance or internal audit executives of any holding or intermediate company included in paragraph (2) if the most senior executive in the reporting line reports directly to the independent audit committee of the board of directors of the holding or intermediary company.

(4) For slot machine licensees or holding companies **[which] that** are not corporate entities, the non-corporate equivalent of any of the persons or entities listed in paragraphs (1)–(3).

(5) An independent audit committee or other persons designated by the Board in the slot machine licensee's Statement of Conditions under § 423a.6 (relating to license, permit, registration and certification issuance and statement of conditions).

(d) The slot machine licensee's personnel shall be trained in all policies, procedures and internal controls relevant to each employee's individual function. Special instructional programs shall be developed by the slot machine licensee in addition to any on-the-job instruction sufficient to enable all members of the departments required by this section to be thoroughly conversant in, and knowledgeable of, the required manner of performance of all transactions relating to their functions.

(e) Notwithstanding other provisions to the contrary, a slot machine licensee may designate and assign more than one **[person] individual** to serve jointly as the supervisor of a department required by this section. Each **[person] individual** approved to serve as a joint supervisor of a mandatory department shall be located at the licensed facility and shall be individually and jointly accountable and responsible for the operations of that department.

(f) In the event of a vacancy in the chief executive officer position or any mandatory department supervisory position required by subsection (b), the following apply:

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(2) The slot machine licensee shall designate **[a person] an individual** to assume the duties and responsibilities of the vacant position within 30 days after the date of vacancy. The **[person] individual** may assume the duties and responsibilities of the vacant position on a temporary basis, provided that:

(i) The **[person] individual** does not also function as the department supervisor for any other mandatory department required by this section.

(ii) The **[person's] individual's** areas of responsibility will not be so extensive as to be impractical for one **[person] individual** to monitor.

(iii) The position shall be filled on a permanent basis within 120 days of the original date of vacancy.

(3) Within 5 days of filling a vacancy under paragraph (2), the slot machine licensee shall notify the Board thereof. The notice must be in writing and indicate the following:

- (i) The position.
- (ii) The name of the [**person**] individual designated.
- (iii) The date that the vacancy was filled.
- (iv) An indication of whether the position has been filled on a temporary or permanent basis.
- (4) The notices required in this subsection shall be directed to the Bureau of Licensing.

(g) Each slot machine licensee shall prepare and maintain a jobs compendium consistent with the requirements of this section detailing job descriptions and lines of authority for all personnel employed by the slot machine licensee. The jobs compendium shall be submitted to the Board for approval as part of the slot machine licensee's internal controls required under § 465a.2 at least 90 days prior to the commencement of slot or table game operations. The Board will review the jobs compendium to determine whether the job descriptions and the organizational charts contained therein conform to the licensing, permitting and registration requirements and chain-of-command and segregation of duties requirements of the act and the Board's regulations as part of the Board's review of the slot machine licensee's internal controls required under § 465a.2.

(h) A jobs compendium must include the following sections:

(1) An alphabetical table of contents listing the position title, job code department for each job description and the page number on which the corresponding job description may be found.

(2) An organizational chart for each department or division, including all positions and illustrating by position title, the direct and indirect lines of authority within the department or division. Each page of an organizational chart must specify the following:

(i) The date the organizational chart was approved.

(ii) The effective date of the previously submitted organizational chart that the revised organizational chart supersedes.

(iii) A unique title or other identifying designation for that organizational chart.

(3) Job descriptions of each employee position that accurately correspond to a position title listed in the organizational charts and in the alphabetical table of contents. Each job description must be contained on a separate page, organized by departments or divisions, and include, at a minimum, the following:

(i) The job title and corresponding department.

(ii) Job duties and responsibilities.

(iii) Detailed descriptions of experience or educational requirements.

(iv) The type of license, permit or registration required by the act and this part.

(v) The date of submission of each employee job description and the date of any prior job description it supersedes.

(vi) The page number of each organizational chart on which the employee job title is included.

(vii) The access code that will be assigned to the employee job description for the access badge required under § 465a.12 (relating to access badges and temporary access credentials).

(i) Any proposed amendment to a previously approved jobs compendium, including any amendment to an organizational chart, which involves the departments listed in subsection (b) shall be submitted as an amendment to the slot machine licensee's internal controls in accordance with § 465a.2. Amendments that are required to be submitted under this subsection may be implemented by the slot machine licensee prior to approval of the amendment, if:

(1) The amendment is immediately recorded in the copy of the jobs compendium maintained by the slot machine licensee on its premises.

(2) The amendment is submitted to the Bureau of Gaming Operations by the end of the business day on the date of implementation, including at a minimum, the proposed changes to the information required under subsection (h), including the corresponding revised job descriptions and organizational charts, contained on pages which may be used to substitute for those sections of the jobs compendium previously approved by the Board.

(j) For departments that are not listed in subsection (b), unless otherwise directed by the Board, a slot machine licensee will not be required to submit amendments to its jobs compendium for approval. Instead, the certificate holder will be required to notify the Bureau of Licensing by the end of the business day on the date of implementation for newly created positions or changes to job descriptions and tables of organizations. The notification must include properly formatted job descriptions and organization charts for the affected departments. After the notification has been submitted, the Bureau of Licensing may require changes to the job descriptions and organizational charts to ensure compliance with licensing, permitting or registration requirements.

(k) Notwithstanding other requirements of this section, each certificate holder shall submit a complete and up-to-date jobs compendium to the Bureau of Gaming Operations and the Bureau of Licensing 12 months after its receipt of authorization to commence slot operations and every 12 months thereafter.

(l) Each slot machine licensee shall maintain on its premises a complete, updated copy of its jobs compendium, in a written or electronic form, which shall be made available for review upon request of the Board, the Department or the Pennsylvania State Police.

(m) This section does not limit a slot machine licensee's discretion in utilizing a particular job title for any position in its jobs compendium.

§ 465a.12. Access badges and temporary access credentials.

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(e) In the internal controls required to be submitted under § 465a.2, the slot machine licensee shall include an access matrix containing all restricted

areas and all employees, including position titles and departments, who have access to those restricted areas.

(f) Read-only access to the electronic database system shall be made available through secure computer access to the Board's representatives at the licensed facility.

[(f)] (g) Slot machine licensees shall develop an access badge system consisting of a badge that contains the employee's name and a color, code or symbol that indicates the areas in the licensed facility that the employee is allowed to access.

[(g)] (h) Employees of a slot machine licensee shall be required to wear an access badge in a visible location at all times while they are working in a licensed facility.

§ 465a.14. Security department minimum staffing.

(a) In accordance with § 465a.2(d)(5) (relating to internal control systems and audit protocols), slot machine licensees shall be required to submit a minimum staffing submission with regard to its security department. The minimum staffing submission must consider the size and layout of the licensed facility as well as the number and configuration of slot machines **and table games** on the gaming floor and must at all times provide for security of the gaming floor and restricted areas servicing the gaming operation. A slot machine licensee may not implement a change or amendment in its security department minimum staffing submission without Board approval of the change or amendment.

(b) A slot machine licensee may not employ off-duty law enforcement officers to provide security related services[,] in **the** licensed facility or in any manner in connection with the conduct of slot machine operations.

§ 465a.15. [Cashiers' cage] Cage characteristics.

(a) A licensed facility shall have on, immediately adjacent or proximate to the gaming floor, a physical structure known as a [**cashiers'**] cage to house the cashiers and to serve as the central location in the licensed facility for:

(1) The custody of the cage inventory comprised of cash (currency or coin), **gaming chips, plaques** and the forms, documents and records normally associated with the operation of a [**slot**] cage.

(2) [**The initial financial consolidation of all transactions relating to slot machine activity.**

(3) **Other**] The functions normally associated with the operation of a [**cashiers'**] cage.

(b) The supervisor of the [**cashiers'**] cage shall, regardless of shift, be [**licensed**] **permitted** as a [**key**] **gaming** employee.

(c) The [**cashiers'**] cage must be designed and constructed to provide maximum security for the materials housed therein and the activities performed therein. Its design and construction must include:

(1) Manually triggered silent alarm systems located at the cashiers' window, vault and in ancillary office space adjacent or proximate thereto. The systems must be connected directly to the monitoring room of the surveillance department and to the security department.

(2) A double door entry and exit system that will not permit a person to pass through the second door until the first door is securely locked. In addition, the following apply:

(i) The first door leading from the gaming floor of the double door entry and exit system must be controlled by the security department or the surveillance department.

(ii) The second door of the double door entry and exit system must be controlled by the [**cashiers'**] cage, security department or the surveillance department, provided that the first and second door may not be controlled by the same department.

(iii) The double door entry and exit system must have surveillance coverage which shall be monitored by the surveillance department.

(iv) An entrance to the [**cashiers'**] cage that is not a double door entry and exit system must be an alarmed emergency exit door only.

* * * * *

(d) A licensed facility may also have one or more satellite cages separate and apart from the [**cashiers'**] **main** cage, established to maximize security, efficient operations or patron convenience. A satellite cage may perform all of the functions of the [**cashiers'**] **main** cage and must be equipped with an alarm system in compliance with subsection (c)(1). The functions which are conducted in a satellite cage shall be subject to the accounting controls applicable to a [**cashiers'**] **main** cage set forth in this subpart.

(e) A slot machine licensee shall maintain, immediately available to the Board and the Pennsylvania State Police, a current list, with **Board** credential numbers, of all persons:

(1) Possessing the combination or keys to the locks securing the double door entry and exit system restricting access to the [**cashiers'**] **main** cage and any satellite cage and the vault.

(2) Possessing the ability to activate or deactivate alarm systems for the [**cashiers'**] **main** cage, any satellite cage and vault.

§ 465a.16. Accounting controls for the [cashiers'] cage.

* * * * *

(b) At the opening of every shift, in addition to the imprest funds normally maintained by cage cashiers, each slot machine licensee shall have in the [**cashiers'**] **main** cage, a reserve cash bankroll sufficient to pay winning patrons.

(c) The [**cashiers'**] **main** cage and any satellite cage shall be physically segregated by personnel and function as follows:

(1) Cage cashiers shall operate with individual imprest inventories of cash and their functions include the following:

(i) The receipt of cash, **value chips, plaques** and **other** cash equivalents from patrons in exchange for cash [**under § 465a.22 (relating to cash equivalents)**].

(ii) The receipt of personal checks for gaming purposes from patrons in exchange for cash, subject to the limitations on amount [**required by the Board**] under § 465a.20 (relating to personal check cashing).

(iii) The receipt of cash, **value chips, plaques and other** cash equivalents, checks issued by the slot machine licensee, annuity jackpot checks, wire transfers and cashless funds transfers from patrons to establish a customer deposit under § 465a.23 (relating to customer deposits).

* * * * *

(2) Main bank cashier functions include the following:

(i) The receipt of cash, **value chips, plaques**, cash equivalents, gaming vouchers, jackpot payout slips and personal checks received for gaming purposes from cage cashiers in exchange for cash.

(ii) The receipt of cash from the count rooms.

(iii) The receipt of personal checks accepted for gaming purposes from cage cashiers for deposit.

(iv) The preparation of the overall cage reconciliation and accounting records.

(v) The preparation of the daily bank deposit for cash, cash equivalents, **counter checks** and personal checks.

(vi) The issuance, receipt and reconciliation of imprest funds used by slot attendants.

(vii) The receipt from cage cashiers of documentation with signatures thereon, required to be prepared for the segregation of functions in the [**cashiers'**] cage.

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§ 465a.17. Bill validators, [**and**] slot cash storage boxes **and table game drop boxes**.

(a) Slot machines **and fully automated electronic gaming tables** must be equipped with a bill validator configured to accept any combination of currency, gaming vouchers, coupons and other instruments authorized by the Board for incrementing credits on a slot machine **or fully automated electronic gaming table**.

(b) Access to the bill validator must be controlled by at least one lock, the key to which shall be controlled by the slot operations department.

(c) The bill validator in a slot machine **or fully automated electronic gaming table** must contain a secure tamper resistant container known as a slot cash storage box **or table game drop box**. Currency, gaming vouchers, coupons and Board-approved instruments inserted into the bill validator shall be deposited into the slot cash storage box **or table game drop box**.

(d) The slot cash storage box **or table game drop box** must be secured to the bill validator by two separate locks, the keys to which shall be different from each other, one of which may be the lock to the belly door or main door of the slot machine **or fully automated electronic gaming table** and a second of which is the lock on the release mechanism on the slot cash storage box **or table game drop box**. If there is not a full door on the bill validator, the lock on the release mechanism on the slot cash storage box **or table game drop box** must detect and display whether it is locked or unlocked and communicate whether it is locked or unlocked to a slot monitoring system. The keys shall be maintained and controlled as follows:

(1) The key to the belly door or main door of the slot machine **or fully automated electronic gaming table** shall be maintained and controlled by the slot operations department.

(2) The key to the lock securing the release mechanism on the slot cash storage box **or table game drop box** shall be maintained and controlled by the security department. The security department shall establish a sign-out and sign-in procedure with regard to this key which includes documentation of this transfer.

(e) A slot cash storage box **or table game drop box** from a **fully automated electronic gaming table** must:

(1) Have at least one lock securing the contents of the slot cash storage box **or table game drop box**, the key to which shall be maintained and controlled by the finance department.

(2) Have a slot opening through which currency, gaming vouchers and coupons can be inserted into the slot cash storage box **or table game drop box**.

(3) Have a mechanical arrangement or device that prohibits removal of currency, gaming vouchers and coupons from the slot opening whenever the slot cash storage box **or table game drop box** is removed from the bill validator.

(4) Be fully enclosed, except for openings that may be required for the operation of the bill validator or the slot cash storage box **or table game drop box**. However, the location and size of the openings may not affect the security of the slot cash storage box, **the table game drop box**, its contents or the bill validator.

(5) Have an asset number that is permanently imprinted, affixed or impressed on the outside of the slot cash storage box **or table game drop box** which corresponds to the asset number of the slot machine **or fully automated electronic gaming table** to which the bill validator has been attached. In lieu of the asset number, a slot machine licensee may develop and maintain, with prior Board approval, a system for assigning a unique identification number to its slot cash storage boxes **or table game drop boxes**. The system must ensure that each slot cash storage box **or table game drop box** can readily be identified, either manually or by computer, when in use with, attached to, and removed from a particular bill validator. Each unique identification number must be permanently imprinted, affixed or impressed on the outside of each slot cash storage box **or table game drop box** that does not otherwise bear an asset number. The asset number or unique identification number must be conspicuous and clearly visible to persons involved in removing or replacing the slot cash storage box **or table game drop box** in the bill validator and through the slot machine licensee's surveillance system. Notwithstanding the foregoing, emergency slot cash storage boxes **and emergency table game drop boxes for fully automated electronic gaming tables** may be maintained without an asset number or a unique identification number, provided the word "emergency" is permanently imprinted, affixed or impressed thereon, and when put into use, are temporarily marked with the asset number of the slot machine **or fully automated electronic gaming table** to which the bill validator is attached.

(6) Be designed and installed in a manner that renders the slot machine **or fully automated electronic gaming table** inoperable in the event of the removal or absence of the slot cash storage box **or table game drop box**.

(f) A table game in a licensed facility that is not a **fully automated electronic gaming table** must have

a secure tamper-resistant table game drop box attached to it in which the following shall be deposited:

(1) All cash exchanged at the gaming table for gaming chips and plaques.

(2) Issuance copies of Counter Checks exchanged at the gaming table for gaming chips and plaques.

(3) Copies of Fill Request Slips, Fill Slips, Credit Request Slips, Credit Slips and Table Inventory Slips.

(g) A table game drop box from a table game that is not a fully automated electronic gaming table must have:

(1) Two separate locks securing the contents placed into the table game drop box, the keys to which must be different from each other.

(2) A separate lock securing the table game drop box to the gaming table, the key to which must be different from each of the keys to the locks securing the contents of the table game drop box.

(3) A slot opening through which currency, value chips or poker rake chips for nonbanking games and required forms and documents can be inserted into the table game drop box.

(4) A mechanical device that must automatically close and lock the slot opening upon removal of the table game drop box from the gaming table.

(5) Permanently imprinted or impressed thereon and clearly visible either:

(i) A number corresponding to a unique permanent number on the gaming table to which the table game drop box is attached and a letter or letters which indicate the type of game.

(ii) The word "emergency."

(6) A table game drop box may also be identified by a bar code label that is securely affixed to the table game drop box for identification. Each bar code label affixed to a table game drop box must be:

(i) Encoded, at a minimum, with the information required under paragraph (5)(i).

(ii) Prepared in accordance with the slot machine licensee's approved internal controls.

(h) The key utilized to unlock the table game drop boxes from table games that are not fully automated electronic gaming tables shall be maintained and controlled by the security department.

(i) The key to one of the locks securing the contents of a table game drop box from a table game that is not a fully automated electronic gaming table shall be maintained and controlled by the finance department. The key to the second lock securing the contents of the table game drop box from a table game that is not a fully automated electronic gaming table shall be maintained and controlled by the casino compliance representatives.

(j) Prior to using a table game drop box labeled "Emergency" for a table game that is not a fully automated electronic gaming table, the certificate holder shall:

(1) Notify and obtain the verbal approval of the casino compliance representatives.

(2) Temporarily mark the emergency table game drop box with the number of the gaming table and a letter or letters that indicate the type of game.

§ 465a.18. Transportation of slot cash storage boxes and table game drop boxes to and from [bill validators] the gaming floor; storage.

(a) Slot machine licensees shall [file with the Bureau of Gaming Operations a schedule setting forth the specific times at which slot cash storage boxes will be brought to or removed from the bill validators along with specifications as to what areas of the gaming floor will be dropped on each pick-up day and the specific transportation route to be utilized from the gaming floor to the count room] submit and obtain the approval of the Bureau of Casino Compliance the plan for the distribution and collection of slot cash storage boxes and table game drop boxes. The plan must:

(1) Provide for the separate distribution and collection of table game drop boxes from table games that are not fully automated electronic gaming tables from slot cash storage boxes and table game drop boxes from table games that are fully automated electronic gaming tables.

(2) Include the time the distribution and collection of table game drop boxes from table games that are not fully automated electronic gaming tables, slot cash storage boxes and table game drop boxes from table games that are fully automated electronic gaming tables will begin.

(3) Specify which slot cash storage boxes will be picked up on each pick-up day.

(4) Specify the order in which the slot cash storage boxes and table game drop boxes will be distributed and collected.

(5) Specify the route that the drop team will utilize from the gaming floor to the count room.

(b) Slot machine licensees shall maintain [immediately] and make available to the Bureau of [Gaming Operations] Casino Compliance and the Pennsylvania State Police, a current list, with Board credential numbers, of all employees participating in the transportation of slot cash storage boxes and table game drop boxes to and from the gaming floor. [Any deviation from the schedule setting forth the specific times at which slot cash storage boxes will be brought to or removed from the bill validators, change in the areas to be dropped or the transportation route to the count room shall be noticed to the Bureau of Gaming Operations in advance.] The slot machine licensee shall file notice with the Bureau of Casino Compliance and obtain verbal approval from the casino compliance supervisor at the licensed facility prior to:

(1) Deviating from the schedule setting forth the specific times at which slot cash storage boxes or table game drop boxes are brought to or removed from the gaming floor.

(2) Changing which slot cash storage boxes will be picked up on each pick-up day.

(3) Altering the route to the count room.

(c) Table game drop boxes shall be removed from all gaming tables and fully automated electronic

gaming tables once each gaming day regardless of whether or not the gaming table was open or closed during that gaming day. Table game drop boxes from table games that are not fully automated electronic gaming tables shall be collected separately from slot cash storage boxes and table game drop boxes from fully automated electronic gaming tables.

(d) Slot cash storage boxes [removed from bill validators] and table game drop boxes removed from bill validators or gaming tables shall be transported directly to, and secured in, the count room or a trolley storage area located immediately adjacent thereto, configured and secured by a minimum of three employees, at least one of which is a member of the security department and at least one of which is a member of the finance department.

(1) Upon its removal from a bill validator or gaming table, a slot cash storage box or table game drop box shall immediately be placed [immediately] in an enclosed trolley which is secured by two separately keyed locks. The [keys shall be maintained and controlled as follows:

(i) The key to one lock shall be maintained and controlled by the finance department.

(ii) The key to the second lock shall be maintained and controlled by the security department [key to one lock shall be maintained and controlled by the security department. The key to the other lock shall be maintained and controlled by the finance department. Access to the [security department's key] keys shall be controlled, at a minimum, by a sign-out and sign-in procedure contained in the slot machine licensee's internal controls. [The security department key shall be returned to its secure location immediately upon the completion of the collection and transportation of the slot cash storage boxes.] The security department key and the key controlled by finance shall be returned to its secure location after completion of the slot and table game count.

(2) Prior to the movement of any trolley [containing], which contains slot cash storage boxes or table game drop boxes, from the gaming floor into the count room, the drop team supervisor shall verify that the number of slot cash storage boxes [being transported] and table game drop boxes removed from the gaming floor equals the number of slot cash storage boxes and table game drop boxes scheduled to be collected that day and that the locks controlled by security and the finance department have been locked. For table game drop boxes removed from table games that are not fully automated electronic gaming tables, a floorperson or above may verify the number of table game drop boxes removed from the gaming floor instead of the drop team supervisor.

(3) A slot cash storage box or table game drop box being replaced by an emergency slot cash storage box or table game drop box shall be transported, using a trolley, directly to[,] and secured in[,] the count room by [a minimum of three employees,] at least one [of which is a] member of the finance department and [at least] one [of which is a] member of the security department.

(d) Slot cash storage boxes [not contained in a bill validator] and table game drop boxes that are not secured to a bill validator or a gaming table, including emergency slot cash storage boxes and table game drop boxes that are not actively in use, shall be stored in the count room or other secure area [outside the count room approved by the Board,] specified in the slot machine licensee's internal controls. These slot cash storage boxes and table game drop boxes shall be stored in an enclosed [storage] cabinet or trolley and secured in the cabinet or trolley by a separately keyed, double locking system. The [keys] key to one lock shall be maintained and controlled [as follows:

(1) The key to one lock shall be maintained and controlled by the finance department.

(2) The key to the second lock shall be maintained and controlled by the security department [by the security department and the key to the other lock shall be maintained and controlled by the finance department. Access to the [security department's key] keys shall be controlled, at a minimum, by a sign-out and sign-in procedure contained in the slot machine licensee's internal controls.

(e) Notwithstanding subsection (c), the security department may, immediately prior to the commencement of the count process, issue its key to the storage cabinet or trolley to a count room supervisor for the purpose of [allowing count room personnel to gain] gaining access to the slot cash storage boxes and table game drop boxes to be counted. A key transferred from the custody of the security department to the count room supervisor shall be returned immediately following the conclusion of the count of the slot cash storage boxes and table game drop boxes and the return of the empty emergency drop boxes and slot cash storage boxes or table game drop boxes to their respective storage cabinet or trolley by the count room supervisor. The security department shall establish in its internal controls a sign-out and sign-in procedure [which includes documentation of] documenting this transfer and a procedure governing the control of the key during any breaks taken by count room personnel.

(f) [If the central computer control system is not online prior to commencement of the drop of the slot cash storage boxes, a drop team supervisor shall contact the casino compliance representatives at the licensed facility to witness and certify the drop. The drop may not commence until a casino compliance representative is present.] When a gaming table on the gaming floor is not in use, the table game drop box for that table must remain attached to the gaming table.

(g) Prior to changing the type of table game offered or removing a slot machine or table game from the gaming floor, at least one security department employee and one finance department employee shall conduct an emergency drop.

§ 465a.19. Acceptance of tips or gratuities from patrons.

(a) Notwithstanding the requirements of § 461a.8(n) (relating to gaming vouchers), a key employee, box person, floorperson or any other gaming employee who serves in a supervisory position is prohibited from

soliciting or accepting, and no other gaming employee may solicit, a tip or gratuity from a patron of the slot machine licensee [where he is employed]. The slot machine licensee may not permit any practices prohibited by this section.

(b) The slot machine licensee shall submit internal controls relating to the acceptance of tips or gratuities by dealers at banking and nonbanking table games.

(c) Except as permitted under subsection (g), all tips and gratuities received by dealers in a licensed facility shall be:

(1) Immediately deposited in a transparent locked box reserved for tips and gratuities. If Roulette chips are received as tips or gratuities at a Roulette table, the marker button indicating the specific value of the Roulette chips may not be removed until after the dealer, in the presence of a floorperson or above, has expeditiously converted the Roulette chips into value chips which shall then be immediately deposited in the transparent locked box reserved for tips and gratuities.

(2) Collected and accounted for at least once each gaming day.

(3) Placed in a common pool for distribution pro rata among all dealers in accordance with subsection (e).

(d) Upon receipt from a patron of a tip or gratuity, a dealer shall extend his arm in an overt motion and deposit the tip or gratuity in the locked box reserved for tips and gratuities.

(e) Tips and gratuities placed in a common pool shall be distributed pro rata among the dealers in the pool based upon the number of hours worked. In determining the number of hours which an employee has worked for purposes of tip pool distribution, a slot machine licensee may establish standards for distribution which include hours of vacation time, personal leave time or other authorized leave of absence in the number of hours worked by each employee. These standards shall apply uniformly to all employees, except that a slot machine licensee may establish different standards for full-time and part-time employees.

(f) Any distribution of tips and gratuities from a common tip pool under this section shall occur no more than once every 7 calendar days.

(g) Notwithstanding the requirements in subsection (c), a certificate holder that offers the game of Poker may either:

(1) Establish a separate common pool for tips and gratuities received by Poker dealers.

(2) Permit a Poker dealer to retain his own tips and gratuities, in which case the tips and gratuities received by a Poker dealer shall be deposited, in accordance with procedures in subsection (d), in a transparent locked box assigned to the particular dealer. The box shall be moved from table to table with the dealer.

(h) When a slot machine licensee elects to use the option in subsection (g)(2), at the end of the Poker dealer's shift, the dealer shall take the transparent locked box assigned to the dealer to a cage cashier. The cage cashier shall open the container and count the tips and gratuities in the presence of the

Poker dealer and record the total amount of the tips and gratuities received by the dealer and either:

(1) Return the tips and gratuities to the dealer.

(2) Retain all or a portion of the tips and gratuities for inclusion in the dealer's paycheck.

(i) A certificate holder shall develop procedures for the reporting of dealer tips and gratuities to the Internal Revenue Service.

§ 465a.20. Personal check cashing.

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(b) Personal checks accepted under subsection (a) shall be presented by the patron directly to a [slot] cage cashier who shall:

(1) [Restrictively endorse] Endorse the check "for deposit only" to the bank account designated by the slot machine licensee.

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(5) For personal checks equaling or exceeding \$500, verify the validity of the check directly with the commercial bank, savings bank, saving and loan association or credit union upon which it is drawn or obtain an authorization and guarantee of the check from a check verification and warranty service certified as a gaming service provider by the Board. The [slot] cage cashier shall document how the check verification was performed in connection with the acceptance of each personal check.

(6) Immediately exchange the personal check for cash in an amount equal to the amount for which the check is drawn or place the amount in a customer deposit account under § 465a.23 (relating to customer deposits) for subsequent use at the licensed facility. A slot machine licensee may not accept a check or multiple checks which in the aggregate exceed \$2,500 per patron per gaming day, except as permitted in §§ 609a.15(c) and 609a.16(b) (relating to redemption of counter checks; and substitution of counter checks).

(Editor's Note: Chapter 609a will be adopted on or before the date of final adoption of this proposed rulemaking.)

(c) To record a patron's signature in a patron signature file, a [slot] cage cashier shall require the person for whom the file is to be created to present for examination the following:

(1) If the identity of the patron is to be confirmed in accordance with subsection (d)(1), one identification.

(2) If the identity of the patron is to be confirmed in accordance with subsection (d)(2), two forms of identification, at least one of which must contain a photograph or general physical description of the patron.

(d) Before a slot machine licensee may use a signature recorded in a patron signature file to verify the identity of a patron or the validity of a signature on a document, the slot machine licensee shall confirm the identity of the patron by either:

(1) Comparing the signature on the identification presented by the patron under subsection (c)(1) with the signature obtained from the patron and verifying the address of the patron's residence with a credit bureau, commercial bank or, if neither of these sources has the person's address on file or will not provide the information, with an alternative source, which does not include

any **identification credentials or other** documentation presented by the patron at the [**cashiers'**] cage.

(2) Comparing the signature on each of two forms of the identification presented by the patron under subsection (c)(2) with the signature obtained from the patron and comparing the photograph or general physical description contained on at least one of the forms of identification with the patron's actual physical appearance.

(e) A patron signature file established and maintained by a slot machine licensee under subsection (c) must include, in addition to the patron's signature, the following:

* * * * *

(7) The signature of the [**slot**] cage cashier or [**cashiers'**] cage supervisor who examined the identification of the patron and established the patron signature file. The signature will evidence that:

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§ 465a.21. Wire transfers.

(a) A wire transfer accepted by a slot machine licensee on behalf of a patron under [§ 501.7 (relating to prohibition on check cashing)] § 501a.6 (relating to check cashing) to enable a patron to take part in gaming shall be recorded in the slot machine licensee's [**cashiers'**] cage accountability no later than the next gaming day.

(b) Prior to commencing acceptance of wire transfers for gaming purposes, a slot machine licensee shall establish a comprehensive system of internal controls addressing the acceptance, verification, accounting for and sending of wire transfers. The internal controls shall be submitted to and approved by the Board under § 465a.2 (relating to internal control systems and audit protocols).

(c) The internal control procedures developed and implemented by the slot machine licensee under subsection (b) must include:

(1) A [**cashiers'**] cage log to record the following information with regard to wire transfers accepted:

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(viii) The signature of the [**cashiers'**] cage employee receiving and recording the information required by this subsection.

(ix) A notation that the wire transfer has been reversed under subsection (d), when applicable.

(2) A requirement that a [**cashiers'**] cage supervisor other than the [**cashiers'**] cage employee who initially documented receipt of the wire transfer verify receipt of the wire transfer.

(3) A requirement that the [**cashiers'**] cage supervisor verifying receipt of the wire transfer document the verification process performed in the log required under paragraph (1) including:

(i) The method by which the receipt of the wire transfer was verified and, if verified by telephone, the name and title of the person providing the verification.

(ii) The date and time of verification.

(iii) The signature of the [**cashiers'**] cage supervisor verifying receipt of the wire transfer.

(4) The procedures used to:

(i) Establish, verify and document the identity of the patron.

(ii) Make the wire transfer proceeds available to the patron at the [**cashiers'**] cage.

(iii) Adjust the [**cashiers'**] cage accountability.

(5) A [**cashiers'**] cage log to record the following information with regard to wire transfers sent on behalf of a patron:

* * * * *

(vi) The signature of the patron if the request to send a wire transfer is made in person at the [**cashiers'**] cage.

(vii) Documentation supporting the receipt of a request by the slot machine licensee to send a wire transfer on behalf of a patron if the request was not made in person at the [**cashiers'**] cage.

(viii) The signature of the [**cashiers'**] cage employee receiving and recording the information required by this subsection.

(ix) The signature of the [**cashiers'**] cage supervisor or accounting department supervisor authorizing the wire transfer.

(6) When sending a wire transfer on behalf of a patron, the procedures used to:

(i) Verify and document the identity of the patron.

(ii) Adjust the [**cashiers'**] cage accountability.

(d) A slot machine licensee, on the next gaming day, shall take all steps necessary to return to a patron by wire transfer an amount initially accepted by wire transfer if, at the expiration of 14 gaming days following the deposit into its operating account of a wire transfer which has no documented business purpose other than having been accepted to enable a patron to take part in gaming, both of the following circumstances exist:

(1) The wired funds remain in a slot machine licensee's operating account or [**cashiers'**] cage accountability.

(2) The patron has engaged in minimal or no slot or table game play.

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§ 465a.22. Cash equivalents.

(a) **The requirements in this subsection are not applicable to gaming chips or plaques.**

(b) Prior to accepting cash equivalents for gaming purposes as permitted under § 501a.6 (relating to check cashing), a slot machine licensee shall establish a comprehensive system of internal controls addressing the acceptance and verification of cash equivalents. The internal controls shall be submitted to and approved by the Board under § 465a.2 (relating to internal control systems and audit protocols).

[(b)] (c) The internal control procedures developed and implemented by the slot machine licensee under subsection (a) must include:

(1) A requirement that [**cashiers'**] cage employees perform the specific verification procedures required by the issuer of each cash equivalent accepted. The slot machine licensee shall retain adequate documentation evidencing the verification of each cash equivalent.

(2) A requirement that [**cashiers'**] cage employees examine each cash equivalent for counterfeiting, forgery or alteration.

(3) When a slot machine licensee elects to incorporate into its verification procedures a level of reliance on previously accepted cash equivalents, the procedures must articulate the general parameters governing the reliance.

(4) Criteria for [**cashiers'**] cage supervisor involvement in the verification process.

* * * *

§ 465a.23. Customer deposits.

(a) At the request of a patron, a slot machine licensee may hold cash, funds accepted by means of personal check in accordance with § 465a.20 (relating to personal check cashing) or wire transfer in accordance with § 465a.21 (relating to wire transfers) or cash equivalents accepted in accordance with § 465a.22 (relating to cash equivalents) for a patron's subsequent use at the licensed facility. For the purposes of this section, after complying with this chapter for acceptance and verification, noncash items shall be considered converted to cash and deposited as cash for credit to the patron in a customer deposit account maintained in the [**cashiers'**] cage.

(b) Prior to agreeing to hold a patron's cash, funds accepted by means of personal check in accordance with § 465a.20 or wire transfer in accordance with § 465a.21 or cash equivalents accepted in accordance with § 465a.22 for a patron's subsequent use at the licensed facility, each slot machine licensee shall establish a comprehensive system of internal controls addressing the receipt and withdrawal of a customer deposit. The internal controls shall be submitted to and approved by the Board under § 465a.2 (relating to internal control systems and audit protocols).

(c) The internal control procedures developed and implemented by the slot machine licensee under subsection (b) must include:

(1) A requirement that customer deposits be accepted at the [**cashiers'**] cage.

(2) A requirement that customer deposits be withdrawn by the patron at the [**cashiers'**] cage or upon receipt by the slot machine licensee of a written request for withdrawal whose validity has been established.

(3) A requirement that the patron receive a receipt for any customer deposit accepted reflecting the total amount deposited, the date of the deposit and the signature of the [**cashiers'**] cage employee accepting the customer deposit.

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§ 465a.24. Count room characteristics.

(a) A slot machine licensee shall have adjacent or proximate to the [**cashiers'**] cage a room, to be known as a count room, specifically designated, designed and used for counting the contents of slot cash storage boxes **and table game drop boxes**.

* * * *

(c) The following must be located within the count room:

(1) A table constructed of clear glass or similar material for the emptying, counting and recording of the contents of slot cash storage boxes **and table game drop boxes**.

(2) Surveillance cameras capable of video monitoring of:

(i) The entire count process.

(ii) The interior of the count room, including any storage cabinets or trolleys used to store slot cash storage boxes **and table game drop boxes** and any Board-approved trolley storage area located adjacent to the count room.

§ 465a.25. Counting and recording of slot cash storage boxes **and table game drop boxes**.

[(a) A slot machine licensee shall file with the Bureau of Gaming Operations a schedule setting forth the specific times during which the contents of slot cash storage boxes are to be counted and recorded. Any deviation from the schedule shall be noticed to the Bureau Gaming Operations and the casino compliance supervisor at the licensed facility in advance.

(b) Computerized equipment utilized to count and strap currency, gaming vouchers and coupons must:

(1) Automatically provide two separate counts of the funds at different stages of the count process and, if the separate counts are not in agreement, document the discrepancy.

(2) Be capable of determining the value of a gaming voucher or coupon by independently examining information printed on the gaming voucher or coupon. The information is used by the counting equipment to either calculate the value internally or obtain the value directly from the gaming voucher system or coupon system in a secure manner. If the gaming voucher system is utilized to obtain the value of a gaming voucher or coupon, the gaming voucher system must perform a calculation or integrity check to ensure that the value has not been altered in the system in any manner since the time of issuance.

(c) Persons accessing the count room when uncounted funds are present shall wear clothing without any pockets or other compartments with the exception of representatives of the Board, the Department, the Pennsylvania State Police, the security department and the internal audit department.

(d) Persons present in the count room may not:

(1) Carry a handbag or other container unless it is transparent.

(2) Remove their hands from or return them to a position on or above the count table or counting equipment unless the backs and palms of the hands are first held straight out and exposed to the view of other members of the count team and a surveillance camera.

(e) Immediately prior to the commencement of the count, a count room employee shall notify the surveillance department that the count is about to begin to facilitate the recording, under § 465a.9(e) (relating to surveillance system; surveillance department control; surveillance department restriction), of the entire count process.

(f) Prior to commencing gaming operations, a slot machine licensee shall establish a comprehensive system of internal controls addressing the opening, counting and recording of the contents of slot cash

storage boxes. The internal controls shall be submitted to and approved by the Board under § 465a.2 (relating to internal control systems and audit protocols).

(g) The internal controls developed and implemented by the slot machine licensee under subsection (f) must include a description of all computer equipment used in the counting and recording process and other systems, if any, that communicate with that computer equipment for purposes related to the counting of gross terminal revenue.

(h) A gaming voucher or coupon deposited in a slot cash storage box shall be counted and included in the calculation of gross terminal revenue without regard to the validity of the gaming voucher or coupon.

(i) A coupon which has not already been canceled upon acceptance or during the count shall be canceled prior to the conclusion of the count.

(j) If the central computer control system is not online prior to commencement of the count of the slot cash storage boxes, a count room employee shall contact the casino compliance representatives at the licensed facility to witness and certify the count. The count may not commence until a casino compliance representative or other BIE employee is present.]

(a) Prior to commencing gaming operations, a slot machine licensee shall establish a comprehensive system of internal controls addressing the opening, counting and recording of the contents of slot cash storage boxes and table game drop boxes. The internal controls shall be submitted to and approved by the Board under § 465a.2 (relating to internal control systems and audit protocols) and must include:

(1) A workflow diagram which indicates the location of all equipment used in the count, including tables, baskets and bins, and the flow of all currency and paperwork from the start of the count to the conclusion of the count. The approved workflow diagram shall also be filed with the surveillance department.

(2) A description of all computer equipment, software, files or reports used in the counting and recording process and all other systems, if any, that communicate with that computer equipment. The submission must include:

(i) The names of all revenue files, who has access and what type of access they have to these files.

(ii) Controls to prevent access to any count room information by anyone outside of the count room until the entire count process is concluded.

(3) The procedures for conducting each required count which must include, at a minimum, the following:

(i) In full view of the surveillance cameras, the contents of each slot cash storage box or table game drop box shall be emptied on the count table and either manually counted separately on the count table or counted in a currency counting machine located in a conspicuous location on, near or adjacent to the count table.

(ii) After the contents of each slot cash storage box or table game drop box have been emptied on

the count table, the inside of the slot cash storage box or table game drop box shall be held up to the full view of the surveillance cameras to assure that all contents of the slot cash storage box or table game drop box have been removed after which the slot cash storage box or table game drop box shall be locked and placed in the storage area.

(iii) The contents of each slot cash storage box or table game drop box shall be segregated by a count team member into separate stacks on the count table by each denomination of currency and the type of required forms or documents, except that the Bureau of Gaming Operations may permit the utilization of a machine to automatically sort currency by denomination.

(iv) Mutilated or torn currency shall be separated by denomination and recorded as revenue if the bill includes one entire serial number and one letter and number of the serial number from the other half of the bill.

(v) Mutilated or torn currency that is not recorded as revenue shall be placed in a sealed transparent envelope or container and transferred to the main bank by the main bank cashier or cage supervisor at the end of the count.

(vi) Except as provided in subparagraph (vii), each denomination of currency shall be counted separately by one count team member who shall place individual bills of the same denomination on the count table in full view of the surveillance cameras. The currency shall then be counted by a second count team member who is unaware of the result of the original count and who, after completing this count, confirm the accuracy of the total, either verbally or in writing, with that reached by the first count team member.

(vii) A slot machine licensee may, with approval of the Bureau of Gaming Operations, aggregate counts by denomination of all currency collected in substitution of the second count required under subparagraph (vi) if the original counts are being performed automatically by a machine that counts and automatically records the value of currency, and the accuracy of the machine has been suitably tested and proven in accordance with subparagraph (viii).

(viii) Currency counting machines utilized to count and strap currency, gaming vouchers and coupons may be used if:

(A) Prior to the start of each slot or table game count, the counting machine is tested in accordance with the procedures contained in the slot machine licensee's internal controls to verify the accuracy of the counting machine.

(B) The counting machine automatically provides two separate counts of the funds at different stages of the count process and, if the separate counts are not in agreement, document the discrepancy.

(C) The counting machine is capable of determining the value of a gaming voucher or coupon by independently examining information printed on the gaming voucher or coupon. The information is used by the counting equipment to either calculate the value internally or obtain the value directly from the gaming voucher system or coupon system in a secure manner. When the gaming voucher

system is utilized to obtain the value of a gaming voucher or coupon, the gaming voucher system must perform a calculation or integrity check to ensure that the value has not been altered in the system in any manner since the time of issuance.

(ix) A gaming voucher or coupon deposited in a slot cash storage box or table game drop box shall be counted and included in the calculation of revenue without regard to the validity of the gaming voucher or coupon.

(x) A coupon that has not already been canceled upon acceptance or during the count shall be canceled prior to the conclusion of the count.

(4) Procedures for scheduled breaks to be taken by the count team members during the count. This submission must also address the use of restroom facilities that are located in the count room.

(5) Procedures governing the proper wearing and immediate inspection of jumpsuits worn by the count team members to ensure that items are not being taken from the count room without proper authority and that the jumpsuits have not been altered in any way. The count team is prohibited from removing the jumpsuits from the licensed facility.

(b) A slot machine licensee shall file with the Bureau of Casino Compliance a schedule setting forth the times during which the contents of slot cash storage boxes, table game drop boxes from games that are not fully automated electronic gaming tables and table game drop boxes from table games that are fully automated electronic gaming tables are to be counted and recorded. The slot machine licensee shall file notice with the Bureau of Casino Compliance and obtain verbal approval from the casino compliance supervisor at the licensed facility prior to deviating from the count schedule.

(c) Immediately prior to the commencement of the count, a count room employee shall notify the surveillance department that the count is about to begin so that surveillance can record the entire count process as required under § 465a.9(e)(8) (relating to surveillance system; surveillance department control; surveillance department restrictions).

(d) Except as otherwise provided in this section, access to the count room during the counting process shall be limited to the count team and those individuals whose presence is necessary to complete the count. The count team shall consist of at least three employees. Employees in the count room who are conducting the count may not, during the counting process, enter a storage area for slot cash storage boxes, table game drop boxes or other items that are part of the count room to perform any function that is not directly related to the counting process.

(e) The opening, counting and recording of the contents of table game drop boxes from table games that are not fully automated electronic gaming tables may not commence until a casino compliance representative is present in the count room. If the casino compliance representative has to leave the count room during the table game count, the count shall be suspended and all personnel in the count room shall vacate the count room until a casino

compliance representative is available to observe the resumption of the count.

(f) All count team members and the casino compliance representative observing a count shall sign a Count Room Attendance Sheet. Any individual who enters or leaves the count room due to an emergency shall sign and record the time of entry or exit on the Count Room Attendance Sheet. When the individual exiting the count room is unable to sign the document due to the emergency, the count room supervisor shall record the individual's name and time of exit and a notation describing the emergency on the Count Room Attendance Sheet. At the conclusion of the count, a copy of the Count Room Attendance Sheet shall be given to the casino compliance representative.

(g) Individuals who are in or who enter the count room when uncouned funds are present shall wear a full-length, one-piece, pocketless jumpsuit with the exception of representatives of the Board, the Department, the Pennsylvania State Police, the security department and the internal audit department.

(h) Individuals present in the count room when uncouned funds are present may not:

(1) Carry a handbag or other container unless it is transparent.

(2) Remove their hands from or return them to a position on or above the count table or counting equipment unless the backs and palms of the hands are first held straight out and exposed to the view of other members of the count team and a surveillance camera.

(i) Once the counting process has started, the doors to the count room shall only be opened for one of the following purposes:

(1) To allow the entire count team to take a scheduled work break.

(2) To allow for a change of casino compliance representatives.

(3) To allow a main bank cashier or cage supervisor to enter the count room to perform the responsibilities in subsection (n) or (o)(6).

(4) To allow the placement of a slot cash storage box or table game drop box or to remove a trolley, empty slot cash storage boxes or table game drop boxes from the count room.

(5) To allow the count team and the casino compliance representative to exit the room at the conclusion of the count.

(6) In the event of an emergency.

(j) If any individual enters or leaves the count room during the counting process, employees remaining in the count room shall be required to display their hands and to step away from the count table, banking table and counting equipment until the individual has entered or left the count room.

(k) The counting and recording process shall be discontinued when less than three count team members are present in the count room. When the entire count team takes a scheduled break, all cash that has been removed from the slot cash storage boxes or table game drop boxes shall be counted at

least once and secured in a manner approved by the Bureau of Casino Compliance before any member of the count team may leave the count room.

(l) Once the counting process has been started, a member of the count team shall notify surveillance when the count room door will be opened.

(m) All table game drop boxes and designated slot cash storage boxes shall be counted and recorded, at a minimum, once each gaming day. Slot cash storage boxes, table game drop boxes from table games that are not fully automated electronic gaming tables and table game drop boxes from fully automated electronic gaming tables shall be counted and recorded separately.

(n) After the contents of slot cash storage boxes and table game drop boxes from fully automated electronic gaming tables have been removed and counted, a count team member shall present the currency to a main bank cashier or cage supervisor in the count room who shall recount, either manually or mechanically, the currency prior to having access to the information recorded by the count team.

(o) Table game drop boxes from table games that are not fully automated electronic gaming tables shall be counted and recorded as follows:

(1) As the contents of each table game drop box are counted, a count team member shall manually record the results of the count on the Daily Banking Table Game Count Report and the Daily Nonbanking Table Game Count Report or a computer system. The Daily Banking Table Game Count Report and the Daily Nonbanking Table Game Count Report must be three-part forms consisting of an original and two duplicates. The distribution of the Daily Banking Table Game Count Report and the Daily Nonbanking Table Game Count Report shall be as follows:

(i) The original shall be delivered to revenue audit by the count room supervisor immediately after leaving the count room at the conclusion of the count.

(ii) The second copy shall be retained by the casino compliance representative observing the count.

(iii) The third copy shall be retained by the cage supervisor or main bank cashier.

(2) After the contents of each table game drop box from a banking table game are counted, a member of the count team shall record, manually on the Daily Banking Table Game Count Report or electronically on a computer system, the following information for each banking table game drop box:

(i) The value of each denomination of currency counted.

(ii) The total value of all denominations of currency counted.

(iii) The gaming date of the items being recorded, the total number of banking table game drop boxes opened and counted and the date that the Daily Banking Table Game Count Report is being prepared or generated.

(3) After the contents of each table game drop box from a nonbanking table game are counted, a member of the count team shall record, manually

on the Daily Nonbanking Table Game Count Report or electronically on a computer system, the following information for each nonbanking table game drop box:

(i) The value of Poker rake chips counted.

(ii) The value of value chips counted.

(iii) The total value of Poker rake chips and value chips counted.

(iv) The gaming date of the items being recorded, the total number of nonbanking table game drop boxes opened and counted and the date that the Daily Nonbanking Table Game Count Report is being prepared or generated.

(4) After preparation of the Daily Banking Table Game Count Report and the Daily Nonbanking Table Game Count Report or the electronic equivalents prepared on a computer system, the count team members and the count room supervisor shall sign the reports attesting to the accuracy of information recorded thereon. The count room supervisor shall verify that all of the table game drop boxes from table games that are not fully automated electronic gaming tables that were collected and opened by count team members have been recorded on the reports.

(5) Once all currency has been counted and the final count totals have been obtained, employees may not be permitted to leave the count room, except in an emergency, until the recount and presentation procedures in paragraph (6) have been completed.

(6) After the contents of all table game drop boxes from table games that are not fully automated electronic gaming tables have been removed and counted, all cash, value chips and Poker rake chips shall be presented in the count room by a count team member to a main bank cashier or cage supervisor who, prior to having access to the information recorded on the Daily Banking Table Game Count Report and the Daily Nonbanking Table Game Count Report or electronic equivalents and in the presence of the count team members and the casino compliance representative, shall recount, either manually or mechanically, the currency, value chips and Poker rake chips presented in accordance with the following requirements:

(i) The main bank cashier or cage supervisor shall have physical access to all currency, value chips and Poker rake chips presented for recounting and currency, value chips or Poker rake chips for recounting may not be wrapped or placed in a sealed bag or container until the entire recount has been completed and the Daily Banking Table Game Count Report and the Daily Nonbanking Table Game Count Report or electronic equivalents have been signed by the entire count team, the count room supervisor, the main bank cashier or cage supervisor and the casino compliance representative.

(ii) The main bank cashier or cage supervisor may bulk count all strapped currency.

(iii) All partial straps, loose currency, mutilated or torn currency, value chips and Poker rake chips shall be recounted by the main bank cashier or cage supervisor either by hand or with an approved counting device.

(iv) The casino compliance representative may direct that currency straps of any denomination be recounted by the main bank cashier or cage supervisor either by hand or by counting equipment if a discrepancy either in denomination total or grand total is discovered during the initial bulk recount.

(v) Upon completion of the recount, the main bank cashier or cage supervisor shall attest by signature on the Daily Banking Table Game Count Report and the Daily Nonbanking Table Game Count Report or electronic equivalents the amounts of currency, value chips and Poker rake chips counted after which the casino compliance representative shall sign the report evidencing his presence during the count and the fact that both the main bank cashier or cage supervisor and count team have agreed on the total amounts of currency, value chips and Poker rake chips counted.

(vi) When all required signatures have been obtained, the second copy of the Daily Banking Table Game Count Report and the Daily Nonbanking Table Game Count Report or electronic equivalents shall be given to the casino compliance representative and the third copy shall be retained by the cage supervisor or main bank cashier.

(vii) The original Daily Banking Table Game Count Report and the Daily Nonbanking Table Game Count Report or electronic equivalents, the Requests for Fills, the Fill Slips, the Requests for Credits, the Credit Slips, the issuance copy of the Counter Checks, the Table Inventory Slips and any other supporting documentation shall be transported directly to the accounting department and may not be available to cage personnel.

(7) A count room employee, in the presence of the casino compliance representative who observed the count, shall conduct a thorough inspection of the entire count room and all counting equipment located therein to verify that no currency, value chips, Poker rake chips, Counter Checks or supporting documentation remains in the room.

(p) If any problems occur with the slot or table count procedures or machines (for example, computer interface malfunctions or strap overages or shortages), the problems shall be brought to the immediate attention of a casino compliance representative. A detailed written report explaining the problem, the reason for the problem and the corrective action taken shall be filed by the count room supervisor or above with the casino compliance representatives within 24 hours of the conclusion of the count.

(q) A slot machine licensee may submit, as part of its internal controls, alternate procedures for the separate collection, distribution, opening, counting and recording the contents of nonbanking table game drop boxes which do not have to meet the requirements in § 465a.18 (relating to transportation of slot cash storage boxes and table game drop boxes to and from the gaming floor; storage) and this section. The alternate procedures must, at a minimum, include that:

(1) The count shall be conducted:

(i) In the count room at a time during which neither the count for banking table games nor slot machines is being conducted.

(ii) In a room, other than the count room, with dual access controlled by the security department and the finance department and is covered by the slot machine licensee's surveillance system.

(2) The count shall be conducted by at least two employees of the finance department with no incompatible duties.

(3) The opening, counting and recording of the contents of nonbanking table game drop boxes may not commence until a casino compliance representative is present.

§ 465a.26. Jackpot and credit meter payouts.

(a) Prior to commencing gaming operations, a slot machine licensee shall establish a comprehensive system of internal controls addressing jackpot and credit meter payouts that are not paid directly from a slot machine **or fully automated electronic gaming table**. The internal controls shall be submitted to and approved by the Board under § 465a.2 (relating to internal control systems and audit protocols).

(b) The internal control procedures [**developed and implemented by the slot machine licensee under subsection (a)**] must, at a minimum, include:

(1) The use of a two-part electronically generated jackpot/credit meter payout slip created by a slot attendant or slot supervisor or higher slot operations department employee, verifying the winning **wager or winning** combination of characters or a code corresponding to the winning combination of characters on the slot machine **or fully automated electronic gaming table** and the amount of the jackpot or credit meter payout based on the observed winning **wager or winning** combinations.

(2) A requirement that if the jackpot or credit meter payout **on a slot machine** is equal to or between \$1,200 and \$9,999.99, a security department member or a slot operations department member other than the preparer, shall sign the jackpot/credit meter payout slip verifying the winning combination of characters or a code corresponding to the winning combination of characters on the slot machine, the amount of the jackpot or credit meter payout and the payment of the jackpot or credit meter payout to the patron.

(3) A requirement that if the jackpot or credit meter payout is equal to or between \$10,000 and \$24,999.99 **on a slot machine or between \$5,000 and \$24,999.99 on a fully automated electronic gaming table**, a security department member, a slot supervisor or other employee holding the same or greater level of authority than a slot supervisor shall sign the jackpot/credit meter payout slip verifying the winning **wager or winning** combination of characters or a code corresponding to the winning combination of characters on the slot machine **or fully automated electronic gaming table**, the amount of the jackpot or credit meter payout and the payment of the jackpot or credit meter payout to the patron. If the two-part electronically generated jackpot/credit meter payout slip required under paragraph (1) is created by a slot supervisor or higher slot operations department employee, the verification required by this paragraph may be completed by a slot attendant, security department member, a slot supervisor or other employee holding the same or greater level of authority than a slot supervisor.

(4) A requirement that if the jackpot or credit meter payout [**amount**] **on a slot machine or fully automated electronic gaming table** is \$25,000 or more, a slot shift manager or other employee holding the same or

greater level of authority than a slot shift manager shall sign the jackpot/credit meter payout slip verifying the winning **wager or winning** combination of characters or a code corresponding to the winning combination of characters on the slot machine **or fully automated electronic gaming table**, the amount of the jackpot or credit meter payout and the payment of the jackpot or credit meter payout to the patron. If the two-part electronically generated jackpot/credit meter payout slip required under paragraph (1) is created by a [**slot shift manager**] **slot supervisor** or higher slot operations department employee, the verification required by this paragraph may be completed by a slot attendant, security department member, a slot supervisor or other employee holding the same or greater level of authority than a slot supervisor.

(5) A requirement that the following information be on all two-part electronically generated jackpot/credit meter payout slips:

(i) The date and time of the jackpot or credit meter payout.

(ii) The asset number of the slot machine **or fully automated electronic gaming table** on which the jackpot or credit meter payout was registered.

(iii) The winning **wager or winning** combination of characters constituting the jackpot or a code corresponding to the winning combination of characters constituting the jackpot.

* * * * *

(7) A requirement that whenever a winning patron is paid directly by a slot attendant's imprest fund, a two-part manual jackpot/credit meter payout slip is completed that contains the following information:

(i) The date and time of the jackpot or credit meter payout.

(ii) The asset number of the slot machine **or fully automated electronic gaming table** on which the jackpot or credit meter payout was registered.

(iii) The winning **wager or winning** combination of characters constituting the jackpot or a code corresponding to the winning combination of characters constituting the jackpot.

* * * * *

(10) Detailed procedures on the processing of all system overrides or adjustments to jackpot or credit meter payouts. All jackpot or credit meter payouts that do not match the payout amount electronically sent from the slot machine **or fully automated electronic gaming table** to the slot monitoring system require an override.

(11) Detailed procedures for the processing of all voided jackpot/credit meter payout slips.

(12) Detailed procedures for the processing of unclaimed taxable jackpot payouts. The procedures must include notice to the casino compliance representatives at the licensed facility when an unclaimed taxable jackpot payout or credit meter payout occurs.

(13) Back-up procedures that will be used when the slot monitoring system is offline or an electronic jackpot payout slip cannot be created, including the use of a three-part manual jackpot or credit meter payout book or equivalent. The three-part manual jackpot payout book or equivalent must contain preprinted, serial numbered three-part manual jackpot/credit meter payout slips that include the following information:

(i) Preprinted serial numbers.

(ii) The date and time of the jackpot or credit meter payout.

(iii) The asset number of the slot machine **or fully automated electronic gaming table** on which the jackpot or credit meter payout was registered.

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§ 465a.29. Automated teller machines.

(a) Automated teller machines may be placed at any location within a licensed facility. **Automated teller machines that offer credit card advances may not be placed on the gaming floor.**

(b) An automated teller machine must have a label on the top [**of the automated teller machine and on the**] and front of the automated teller machine that displays a unique identification number of the automated teller machine. The labels must have white lettering on a black background or other color combination approved by the Bureau of [**Gaming Operations**] **Casino Compliance**, may not be easily removed and must be easily visible to the surveillance department. The label on the top of the automated teller machine must be at least 1.5 inches by 5.5 inches and the label on the front of the automated teller machine must be at least 1 inch by 2.5 inches.

§ 465a.30. Waiver of requirements.

(a) The Board may, on its own initiative, waive one or more of the requirements of this chapter or technical standards applicable to accounting and internal controls adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website upon a determination that the nonconforming control or procedure nonetheless meets the operational integrity requirements of the act, this subpart and technical standards adopted by the Board [**and published in the Pennsylvania Bulletin and posted on the Board's website**].

(b) A slot machine licensee may submit a request to the Board for a waiver for one or more of the requirements in this chapter or the technical standards applicable to accounting and internal controls adopted by the Board [**and published in the Pennsylvania Bulletin and posted on the Board's web site**]. The request must:

(1) Be filed as a petition under § 493a.4 (relating to petitions generally).

(2) Include supporting documentation demonstrating how the accounting and internal controls for which the waiver has been requested will still meet the operational integrity requirements of the act, this subpart and technical standards adopted by the Board [**and published in the Pennsylvania Bulletin and posted on the Board's web site**].

(3) Be approved by the Board.

§ 465a.31. Gaming day.

(a) [**The**] **For the purposes of determining gross terminal and gross table game revenue, the beginning and ending times of the gaming day will be 6:00 a.m. to 5:59.59 a.m.**

(b) Prior to commencing [**gaming**] **slot or table game** operations, each slot machine licensee shall submit

to the Board, in writing, its hours of operation[, **which times must correspond to the portion of its gaming day it will be open to the public for the purpose of gaming activities**]. A slot machine licensee may not commence gaming operations until its hours of operation are approved by the Board.

(c) Any change in a slot machine licensee's hours of operation shall be submitted as a change to the slot machine licensee's internal controls in accordance with the requirements in § 465a.2(f) [**at least 72 hours in advance of the change**] and may not be implemented until approved by the Board's Executive Director.

§ 465a.32. Signature.

An employee signature may be in either of the following formats:

(1) The employee's first initial, last name and [**Board license**] **Board-issued credential** number, written by the employee, immediately adjacent to or above the clearly printed or preprinted title of the employee.

(2) The employee's unique identification number or other computer identification code issued to the employee by the slot machine licensee, if the document to be signed is authorized by the Board to be generated by a [**slot**] computer system and the method of signature is approved or required by the Board.

§ 465a.33. Access to areas containing central [**computer**] control **computer** equipment.

A slot machine licensee shall develop and submit to the Board and the Department, as part of the submission required under § 465a.2 (relating to internal control systems and audit protocols), procedures for safeguarding and limiting access to the central control computer (CCC) equipment housed within the licensed facility. At a minimum, these procedures must include the following requirements:

* * * * *

(2) Access to the area containing the CCC system equipment may not be permitted unless prior arrangements have been made with the **Department and the operator of the CCC system [and the casino compliance representatives at the licensed facility]**.

(3) All keys which access the area containing CCC equipment shall be maintained by the slot machine licensee's security department. The keys may only be signed out by the director of security or the security shift manager to employees of the Department or the operator of the CCC system who are on the authorized access list. The authorized access list shall be obtained from the Department and made available to the casino compliance representatives **and the director of security** at the licensed facility. A verbal notification shall be made to the surveillance monitoring room, the operator of the CCC system and the casino compliance representatives at the licensed facility prior to signing out the keys.

(4) The slot machine licensee shall maintain an access log for the area containing CCC equipment. The log shall be maintained in a book with bound numbered pages that cannot be readily removed and placed in close proximity to the CCC equipment. Casino compliance representatives at the licensed facility may review the log upon request **with prior approval of the Department and the operator of the CCC system**. The log shall be stored

and retained in accordance with § 465a.6 (relating to retention, storage and destruction of books, records and documents). The following information shall be recorded in a log:

(i) The date and time of each entry.

(ii) The entering [**person's**] **individual's** name, Board-issued credential number and department or affiliation.

(iii) The reason for entering the area containing CCC equipment.

(iv) The name of the [**person**] **individual** authorizing [**the person's**] entry into the area containing CCC equipment.

(v) The date and time of exiting the area containing **the** CCC equipment.

(5) Individuals who are not authorized to have access to the area containing CCC equipment may only be granted access for emergency situations requiring environmental adjustments, such as electrical, plumbing or HVAC malfunctions, with a security escort. When emergency access is granted, the slot machine licensee shall provide notice **immediately** to the Department, **the operator of the CCC system** and the casino compliance representatives at the licensed facility prior to permitting entry to the area containing CCC equipment.

§ 465a.34. Automated gaming voucher and coupon redemption machine accounting controls.

* * * * *

(b) The internal controls required by subsection (a) must include procedures which:

* * * * *

(4) Require that the lock securing the contents of the storage box in the automated gaming voucher redemption machine, automated coupon redemption machine, bill breaker or combination thereof, the key to which must be different from the keys referenced in paragraphs [**(1) and**] **(2) and (3)**, be controlled by an employee of the finance department other than the employee controlling the keys referenced in paragraphs [**(1) and**] **(2) and (3)**.

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(*Editor's Note:* Sections 465a.35—465a.44 are new and printed in regular type to enhance readability.)

§ 465a.35. Personnel assigned to the operation and conduct of table games.

(a) The following personnel shall be used to operate table games that are not fully automated electronic gaming tables in a licensed facility:

- (1) Pit clerks.
- (2) Dealers.
- (3) Stickpersons.
- (4) Boxpersons.
- (5) Floorpersons.
- (6) Pit managers.
- (7) Poker shift managers.
- (8) Assistant table games shift managers.
- (9) Table games shift managers.

(b) Certificate holders shall maintain the following minimum levels of staffing when table games are being operated:

- (1) One pit clerk.
- (2) One dealer for any table game other than Craps or Baccarat.
- (3) Two dealers for each Baccarat table.
- (4) Three dealers for each Craps table, one of whom shall act as the stickperson.
- (5) One boxperson for each Craps table.

(c) Certificate holders shall provide a sufficient number of floorpersons to supervise the operation of table games in accordance with the standards in this subsection. A floorperson may not supervise more than the number of tables specified in one of the following paragraphs:

- (1) Four tables comprised of any combination of banking table games excluding:
 - (i) Baccarat.
 - (ii) Midibaccarat.
 - (iii) Craps.
 - (iv) Mini-Craps.
 - (v) Pai Gow.
- (2) One Baccarat table.
- (3) Two Midibaccarat tables.
- (4) One Midibaccarat table and one table of any other banking table game excluding Baccarat, Craps, Mini-Craps and Pai Gow.
- (5) Three Craps tables.
- (6) One Craps table and one table of any other banking table game excluding Baccarat, Midibaccarat, Mini-Craps and Pai Gow.
- (7) One Mini-Craps table, if only one dealer is assigned to the table.
- (8) Two Mini-Craps tables, if there is a dealer and a stickperson assigned to each table.
- (9) Two Pai Gow tables, if the tables are in a side-by-side configuration.
- (10) One Pai Gow table and one table of any other banking table game excluding Baccarat, Midibaccarat, Craps and Mini-Craps.
- (11) Eight Poker tables.
- (12) Ten Poker tables, if the floorperson assigned to Poker does not have any responsibilities for seating players.

(d) If the gaming tables being supervised by a floorperson are electronic gaming tables other than fully automated electronic gaming tables, the maximum number of gaming tables that the floorperson may supervise may be increased by 50%. For example, under subsection (c)(1), the floorperson would be allowed to supervise six banking gaming tables instead of four.

(e) Certificate holders shall provide a sufficient number of pit managers or assistant table games shift managers to supervise the operation of table games subject to the limitation that a pit manager or assistant table games shift manager may not directly supervise more than six floorpersons.

(f) Certificate holders shall provide a Poker shift manager to supervise all open Poker tables. If no more than three Poker tables are open, a floorperson is not required.

(g) Certificate holders shall provide a table games shift manager to supervise the operation of table games during every shift. An assistant table games shift manager may be designated to act as the table games shift manager in the table games shift manager's absence, but that assistant table games shift manager may not be counted toward the number of pit managers or assistant table games shift managers required under subsection (e).

(h) A certificate holder may request to use a staffing plan that differs from the minimum standards in this section by filing a written Alternate Minimum Staffing Plan with the Board's Executive Director. The Alternate Minimum Staffing Plan must, at a minimum, include:

- (1) The pit number and configuration of any pit affected.
- (2) The type, location and table number of any table affected.
- (3) The standard staffing level required for the gaming table or tables by this section and the proposed alternative staffing.
- (4) The days, shifts or times during which the alternative staffing would be in effect.

(5) A narrative explaining the rationale for the proposed alternative staffing and how the alternative staffing will protect the integrity of gaming at the affected gaming tables.

(i) A certificate holder that has filed a request to use an Alternate Minimum Staffing Plan may not implement that plan until the certificate holder has received written approval from the Board's Executive Director.

(j) Nothing in this section limits a certificate holder from utilizing personnel in addition to those described in this section nor limits the discretion of the Board to order the utilization of additional personnel in the operation and conduct of table games.

§ 465a.36. Table inventories.

(a) Whenever a table game that is not a fully automated electronic gaming table is opened for gaming, operations shall commence with an amount of gaming chips, coins and plaques to be known as the table inventory.

(b) A certificate holder may not cause or permit gaming chips, coins or plaques to be added to, or removed from, the table inventory during the gaming day except:

- (1) In exchange for cash.
- (2) In exchange for the issuance copies of Counter Checks presented by patrons.
- (3) For the payment of winning wagers and collection of losing wagers made at the gaming table.
- (4) In exchange for gaming chips or plaques received from a patron having an equal aggregate face value.
- (5) In conformity with the fill and credit procedures in §§ 465a.38 and 465a.39 (relating to procedures for distributing value chips, coins and plaques to gaming tables; and procedures for removing value chips, coins and plaques from gaming tables).
- (6) For the collection of vigorish.

(c) When a table game is not open for gaming activity, the table inventory and a Table Inventory Slip

prepared in conformity with §§ 465a.37, 465a.42 and 465a.44 (relating to procedures for opening table games; procedures for closing table games; and table inventory counts on a per shift basis) must be stored in a locked container which shall be clearly marked on the outside with the game and the gaming table number to which it corresponds. A Table Inventory Slip shall be completed on a table game that is not open for gaming activity at least once per gaming day. The information on the Table Inventory Slip must be visible from the outside of the container. Containers must be stored either in the cage or secured to the gaming table in a manner approved by the Bureau of Casino Compliance.

(d) The keys to the locked containers containing the table inventories shall be maintained and controlled by the table games department and may not be made accessible to cage personnel or to any employee responsible for transporting the table inventories to or from the gaming tables.

(e) Table Inventory Slips must be two-part forms upon which the following is recorded:

- (1) The date and identification of the shift ended.
- (2) The game and table number.
- (3) The total value of each denomination of gaming chips, coins and plaques remaining at the gaming table.
- (4) The total value of all denominations of gaming chips, coins and plaques remaining at the gaming table.
- (5) The signatures of the dealer or boxperson and floorperson assigned to the gaming table who conducted the count of the table inventory when the gaming table was closed and when the gaming table was opened.

§ 465a.37. Procedures for opening table games.

(a) When a table game that is not a fully automated electronic gaming table is to be opened for gaming activity, the locked container with the table inventory and the duplicate copy of the Table Inventory Slip, if not already attached to the gaming table, shall be transported directly from the cage to the gaming table by a security department member.

(b) Immediately prior to opening the table game for gaming, the floorperson assigned to the gaming table shall unlock the container with the table inventory after assuring that it is the proper container for that gaming table.

(c) The dealer or boxperson assigned to the gaming table shall count the contents of the container with the table inventory in the presence of the floorperson assigned to the gaming table and reconcile the count to the totals on the duplicate copy of the Table Inventory Slip removed from the container.

(d) Signatures attesting to the accuracy of the information recorded on the duplicate copy of the Table Inventory Slip shall be placed on the duplicate copy of the Table Inventory Slip by the dealer or boxperson assigned to the table and the floorperson that observed the dealer or boxperson count the contents of the container.

(e) After the count of the table inventory and the duplicate copy of the Table Inventory Slip has been signed as required under subsection (d), the slip shall be immediately deposited in the table game drop box attached to the gaming table by the dealer or boxperson.

(f) If there is a discrepancy between the amount of gaming chips and plaques counted and the amount of the gaming chips and plaques recorded on the duplicate copy of the Table Inventory Slip:

(1) The discrepancy shall be immediately verbally reported to the pit manager or above, the security department and the casino compliance representatives.

(2) The dealer or boxperson assigned to the table, in the presence of the pit manager or above and a security department employee, shall recount the table inventory and complete a new Table Inventory Slip reflecting the results of the dealer's or boxperson's recount of the table inventory.

(3) The pit manager or above shall:

(i) Prepare an Error Notification Slip, which must be a three-part form containing the following information:

- (A) The date and time.
- (B) The type of game.
- (C) The table number and pit.
- (D) An explanation of the error.

(ii) Write "Incorrect Copy" on the copy of the Table Inventory Slip that was in the table inventory.

(iii) Sign the "Incorrect Copy."

(iv) Write "Correct Copy" on both copies of the Table Inventory Slip required to be prepared by the dealer or boxperson under paragraph (2).

(4) The "Correct Copy" shall be signed by the dealer or boxperson who recounted the table inventory, the security department employee who witnessed the recount and the pit manager or above.

(5) After the signatures required under paragraph (4) have been obtained, the "Incorrect Copy" Table Inventory Slip, both copies of the "Correct Copy" Table Inventory Slip and the first copy of the Error Notification Slip shall be deposited by the dealer or boxperson in the drop box.

(g) The second copy of the Error Notification Slip shall be given to the pit clerk and the third copy of the Error Notification Slip shall be delivered to the casino compliance representatives.

(h) For any discrepancy greater than \$10, the security department shall investigate the discrepancy and, within 24 hours, complete a standard written incident report on a form approved by the Bureau of Gaming Operations and immediately forward a copy of the incident report to the casino compliance representatives.

§ 465a.38. Procedures for distributing value chips, coins and plaques to gaming tables.

(a) A request for a fill to add value chips, coins and plaques to table games that are not fully automated electronic gaming tables shall be prepared by a pit clerk or floorperson or above using a Fill Request Slip. Access to the blank Fill Request Slips shall be restricted to pit clerks and floorpersons or above.

(b) A Fill Request Slip must be a two-part form on which the following information is recorded:

- (1) The date, time and shift of preparation.
- (2) The denomination of value chips, coins and plaques to be distributed to the gaming table.

(3) The total amount of each denomination of value chips, coins and plaques to be distributed to the gaming table.

(4) The game and table number to which the value chips, coins and plaques are to be distributed.

(5) The signature of the floorperson or above requesting the fill.

(c) After the preparation of the Fill Request Slip, the chip bank copy of the Fill Request Slip shall be transported directly to the chip bank by a security department employee.

(d) The drop box copy of the Fill Request Slip shall be placed by the dealer or boxperson in view of the slot machine licensee's surveillance system on the gaming table to which value chips, coins and plaques are to be received.

(e) Notwithstanding the requirements of subsections (a)—(d), a request for a fill may be prepared electronically if the input data for preparation of the fill is entered by, and ability to input data is restricted to, the pit clerk or a floorperson or above, and a Fill Slip is generated in the chip bank as a direct result of the input.

(f) A Fill Slip shall be prepared by a chip bank cashier or, if the required information was input in conformity with subsection (e), the Fill Slip may be electronically generated in the chip bank.

(g) Fill Slips must be serially prenumbered forms. Each series of Fill Slips shall be used in sequential order, and the series number of all Fill Slips received by a certificate holder shall be accounted for by employees with no incompatible functions. All copies of voided Fill Slips shall be marked "Void" and require the signature of the preparer.

(h) When Fill Slips are manually prepared, the following procedures and requirements shall be observed:

(1) Each series of Fill Slips must be a three-part form and shall be inserted in a locked dispenser or bound in a Fill Slip form book that will permit an individual Fill Slip in the series and its copies to be written upon simultaneously while still locked in the dispenser or bound in the Fill Slip form book.

(2) The Fill Slip dispenser must discharge the drop box copy and accounting copy of the Fill Slip while the chip bank copy remains in a continuous, unbroken form in the dispenser. If a Fill Slip form book is utilized, the chip bank copy must remain in the bound Fill Slip form book until removed in accordance with paragraph (3).

(3) Access to the triplicate copies of the Fill Slips shall be maintained and controlled by finance department employees with no incompatible functions who are responsible for controlling and accounting for the unused supply of Fill Slips, placing Fill Slips in the dispensers and removing the chip bank copies of the Fill Slips from the dispensers or Fill Slip form book each gaming day.

(i) When Fill Slips are electronically prepared, each series of Fill Slips must be a three-part form and:

(1) Be inserted in a printer that will simultaneously print a drop box, accounting and chip bank copy of the Fill Slip in the chip bank.

(2) Store, in machine readable form, the information printed on the drop box, chip bank and accounting copies of the Fill Slips. The stored data may not be susceptible to change or removal by any personnel involved in the preparation of a Fill Slip after the Fill Slip has been prepared.

(j) Copies of a Fill Slip and, when applicable, the stored data, must contain, at a minimum, the following information:

(1) The denominations of the value chips, coins and plaques being distributed.

(2) The total amount of each denomination of value chips, coins and plaques being distributed.

(3) The total amount of all denominations of value chips, coins and plaques being distributed.

(4) The game and table number to which the value chips, coins and plaques are being distributed.

(5) The date and shift during which the distribution of value chips, coins and plaques occurs.

(6) The signature of the preparer or, if electronically prepared, the identification code of the preparer.

(k) The time of preparation of the Fill Slip shall be recorded on the drop box, chip bank and accounting copies of the Fill Slip upon preparation.

(l) Value chips, coins and plaques distributed to the gaming tables from the chip bank shall be transported directly to the gaming tables from the chip bank by a security department employee. The security department employee shall compare the Fill Request Slip to the Fill Slip and sign the drop box copy and accounting copy of the Fill Slip attesting to the accuracy of the fill.

(m) Signatures on the drop box copy and accounting copy of the Fill Slip attesting to the accuracy of the information contained on a Fill Slip shall be required of the following employees at the following times:

(1) The chip bank cashier upon preparation.

(2) The security department employee transporting the value chips, coins and plaques to the gaming table upon receipt from the cashier of the value chips, coins and plaques to be transported.

(3) The dealer or boxperson assigned to the gaming table upon receipt and verification of the amounts of the value chips, coins and plaques at the gaming table from the security department employee.

(4) The floorperson assigned to the gaming table upon receipt and verification of the amounts of the value chips, coins and plaques at the gaming table.

(n) After meeting the signature requirements in subsection (m), the security department employee that transports the value chips, coins and plaques and the drop box copy and accounting copy of the Fill Slip to the gaming table shall observe the immediate placement by the dealer or boxperson of the drop box copy of the Fill Slip and the drop box copy of the Fill Request Slip in the drop box attached to the gaming table to which the value chips, coins and plaques were transported. The security department employee shall then return the accounting copy of the Fill Slip to the cage where it shall be inserted into a locked accounting box. The chip bank copies of the Fill Request Slip and Fill Slip shall be maintained together by the chip bank cashier until forwarded to the finance department.

(o) All parts of voided Fill Slips, as well as the chip bank copies of Fill Request Slips and the accounting and chip bank copies of the Fill Slips that are maintained and controlled in conformity with subsection (n), shall be forwarded to the finance department for agreement, on a daily basis, with the drop box copies of the Fill Request Slips and Fill Slips removed from the drop box on the gaming table.

§ 465a.39. Procedures for removing value chips, coins and plaques from gaming tables.

(a) A request for a credit to remove value chips, coins and plaques from table games that are not fully auto-

mated electronic gaming tables shall be prepared by a pit clerk or floorperson or above using a Credit Request Slip. Access to blank Credit Request Slips shall be restricted to pit clerks and floorpersons or above.

(b) A Credit Request Slip must be a two-part form on which the following information is recorded:

- (1) The date, time and shift of preparation.
- (2) The denomination of chips, coins and plaques to be removed from the gaming table.
- (3) The total amount of each denomination of value chips, coins and plaques to be removed from the gaming table.
- (4) The game and table number from which the value chips, coins and plaques are to be removed.
- (5) The signatures of the dealer or boxperson and the floorperson or above assigned to the gaming table from which the value chips, coins and plaques are to be removed.

(c) After the preparation of a Credit Request Slip and prior to the transfer of the value chips, coins and plaques to a security department employee, a floorperson or above shall obtain on the drop box copy of the Credit Request Slip, the signature of the security department employee to which the value chips and plaques are being transferred. The dealer or boxperson assigned to the gaming table shall place the drop box copy of the Credit Request Slip in view of the slot machine licensee's surveillance system on the gaming table from which the value chips, coins and plaques were removed. The drop box copy of the Credit Request Slip may not be removed until a Credit Slip is received from the chip bank at which time the drop box copy of the Credit Request Slip and Credit Slip are to be deposited in the drop box attached to the gaming table.

(d) The chip bank copy of the Credit Request Slip and the value chips, coins and plaques removed from the gaming table shall be transported directly to the chip bank by the security department employee.

(e) Notwithstanding the requirements in subsections (a)–(d), a request for a credit may be prepared electronically if the input data for preparation of the credit is entered by, and ability to input data is restricted to, the pit clerk or a floorperson or above, and a Credit Slip is generated in the chip bank, as a direct result of the input.

(f) A Credit Slip shall be prepared by a chip bank cashier. When the required information was input in conformity with subsection (e), the Credit Slip may be electronically generated in the chip bank.

(g) Credit Slips must be serially prenumbered forms. Each series of Credit Slips shall be used in sequential order. The series numbers of all Credit Slips received by a certificate holder shall be accounted for by employees with no incompatible functions. All copies of voided Credit Slips shall be marked "Void" and signed by the preparer.

(h) When Credit Slips are manually prepared, the following procedures and requirements shall be observed:

- (1) Each series of Credit Slips must be a three-part form and be inserted in a locked dispenser or bound in a Credit Slip form book that permits an individual Credit Slip in the series and its copies to be written upon simultaneously while still locked in the dispenser or bound in the Credit Slip form book.
- (2) The Credit Slip dispenser must discharge the drop box copy and accounting copy of the Credit Slip while the

chip bank copy of the Credit Slip remains in a continuous, unbroken form in the dispenser. If a Credit Slip form book is utilized, the chip bank copy must remain in the bound Credit Slip form book until removed in accordance with subsection (c).

(3) Access to the triplicate copies of the Credit Slips shall be maintained and controlled by finance department employees with no incompatible functions who are responsible for controlling and accounting for the unused supply of the Credit Slips, placing Credit Slips in the dispensers and removing the chip bank copies of the Credit Slips from the dispensers or Credit Slip form book each gaming day.

(i) When Credit Slips are electronically prepared, each series of Credit Slips must be a three-part form and:

(1) Be inserted in a printer that simultaneously prints a drop box, accounting and chip bank copies of the Credit Slip in the chip bank.

(2) Store, in machine-readable form, the information printed on the drop box, accounting and chip bank copies of the Credit Slip. The stored data may not be susceptible to change or removal by any personnel after the preparation of a Credit Slip.

(j) Copies of the Credit Slip and, when applicable, the stored data, must contain, at a minimum, the following information:

- (1) The denominations of the value chips, coins and plaques being returned.
- (2) The total amount of each denomination of value chips, coins and plaques being returned.
- (3) The total amount of all denominations of value chips, coins and plaques being returned.
- (4) The game and table number from which the value chips, coins and plaques are being returned.
- (5) The date and shift during which the removal of value chips, coins and plaques occurs.
- (6) The signature of the preparer or, if electronically prepared, the identification code of the preparer.

(k) The time of preparation of the Credit Slip shall be recorded on the drop box, accounting and chip bank copies of the Credit Slip upon preparation.

(l) After the Credit Slip has been prepared by the chip bank cashier or has been printed in the chip bank as a result of the information being input electronically by a pit clerk or floorperson or above and the value chips, coins and plaques from a gaming table have been returned to the chip bank, the security department employee shall transport the drop box copy and the accounting copy of the Credit Slip to the gaming table from which the value chips, coins and plaques were removed.

(m) Signatures on the drop box copy and accounting copy of a Credit Slip attesting to the accuracy of the information contained on the Credit Slip shall be required of the following employees at the following times:

- (1) The chip bank cashier upon preparation.
- (2) The security department employee returning the value chips, coins and plaques to the chip bank.
- (3) The dealer or boxperson assigned to the gaming table upon receipt of the Credit Slip at the gaming table from the security department employee.

(4) The floorperson assigned to the gaming table upon receipt of the Credit Slip at the gaming table from the security department employee.

(n) After meeting the signature requirements required under subsection (m), the security department employee returning the drop box copy and accounting copy of the Credit Slip to the gaming table shall observe the immediate placement by the dealer or boxperson of the drop box copy of the Credit Slip and the drop box copy of the Credit Request Slip in the drop box attached to the gaming table from which the value chips, coins and plaques were removed. The security department member shall then return the accounting copy of the Credit Slip to the cage where it shall be inserted into a locked accounting box. The chip bank copies of the Credit Request Slip and Credit Slip shall be maintained together by the chip bank cashier until forwarded to the finance department.

(o) All parts of voided Credit Slips, chip bank copies of Credit Request Slips and the accounting and chip bank copies of the Credit Slips that are maintained and controlled in conformity with subsection (n) shall be forwarded to the finance department for agreement, on a daily basis, with the drop box copies of the Credit Request Slips and Credit Slips removed from the drop box on the gaming table.

§ 465a.40. Procedures for accepting cash for gaming chips, plaques or electronic wagering credits at table games.

When cash is presented by a patron at a table game that is not a fully automated electronic gaming table for exchange for gaming chips, plaques or electronic wagering credits:

(1) The cash shall be spread on the top of the gaming table by the dealer or boxperson accepting it in full view of the patron who presented it, the floorperson assigned to the gaming table and the slot machine licensee's surveillance system.

(2) The amount of cash shall be verbalized by the dealer or boxperson accepting it in a tone of voice to be heard by the patron who presented it and the floorperson assigned to the gaming table.

(3) Immediately after an equivalent amount of gaming chips, plaques or electronic wagering credits have been given to the patron, the cash shall be taken from the top of the gaming table and placed by the dealer or boxperson into the drop box attached to the gaming table.

§ 465a.41. Procedures for drops at open table games.

(a) When a table game that is not a fully automated electronic gaming table is being dropped is to remain open for gaming activity, the value chips, coins and plaques remaining in the table inventory at the time of the drop shall be counted by the dealer or boxperson assigned to the gaming table and recorded on a Table Inventory Slip.

(b) The count required under subsection (a) shall be observed by the floorperson who is responsible for supervising the table game at the time of the drop.

(c) Signatures attesting to the accuracy of the information recorded on the Table Inventory Slip shall be placed on both copies of the Table Inventory Slip by the dealer or boxperson assigned to the table and the floorperson that observed the dealer or boxperson count the contents of the table inventory.

(d) After meeting the signature requirements in subsection (c), the original copy of the Table Inventory Slip shall be deposited in the drop box that is attached to the gaming table immediately before the drop box is removed from the gaming table as part of the drop. The duplicate copy of the Table Inventory Slip shall be deposited in the drop box that is attached to the gaming table immediately following the removal of the drop box that is removed from the gaming table as part of the drop.

§ 465a.42. Procedures for closing table games.

(a) When gaming activity at a table game that is not a fully automated electronic gaming table is concluded, the value chips, coins and plaques remaining at the gaming table shall be counted by the dealer or boxperson assigned to the gaming table in the presence of the floorperson assigned to the gaming table.

(b) The amounts of the value chips, coins and plaques counted shall be recorded on the Table Inventory Slip by the floorperson assigned to the gaming table. The original copy of the Table Inventory Slip shall be signed by the dealer or boxperson who counted the table inventory and the floorperson who observed the dealer or boxperson count the contents of the table inventory.

(c) After the original copy of the Table Inventory Slip has been signed as required under subsection (b), the original copy of the Table Inventory Slip shall be immediately deposited in the table game drop box attached to the gaming table.

(d) After the original copy of the table inventory slip has been deposited in the table game drop box attached to the gaming table, the duplicate copy of the table inventory slip and the value chips, coins and plaques remaining at the gaming table shall be placed in the container required under § 465a.36 (relating to table inventories), after which the container shall be locked and either transported directly to the cage by a security department member or secured to the gaming table.

(e) If the locked containers are transported to the cage, a cage supervisor shall determine that all locked containers have been returned.

(f) If the locked containers are secured to the gaming table, a pit manager or above shall verify that all the containers are locked.

§ 465a.43. Table inventories for Poker tables.

(a) Notwithstanding the requirements in §§ 465a.36, 465a.37, 465a.41 and 465a.42, a certificate holder may establish procedures for the issuance of table inventories that are maintained by Poker dealers on an imprest basis.

(b) The procedures developed under subsection (a) shall be submitted as part of the certificate holder's internal controls.

§ 465a.44. Table inventory counts on a per shift basis.

(a) In addition to the requirements in §§ 465a.37, 465a.41 and 465a.42 (relating to procedures for opening table games; procedures for drops at open table games; and procedures for closing table games), a certificate holder may establish procedures for the use of a three-compartment drop box which requires the preparation of a Table Inventory Slip at least once each gaming day.

(b) The procedures developed under subsection (a) shall be submitted as part of the certificate holder's internal controls.

CHAPTER 467a. COMMENCEMENT OF SLOT
AND TABLE GAME OPERATIONS

§ 467a.1. Gaming floor plan.

(a) An applicant for, or holder of a slot machine license, shall submit to the Board a floor plan of its gaming floor and the restricted areas servicing [the] slot [operation] and table game operations. Initial gaming floor plans shall be drawn to 1/8 inch scale unless another scale is approved by the Board. Revised gaming floor plans may be submitted electronically, unless otherwise requested by Board staff, provided there is sufficient detail when enlarged to read the information in the electronic submission. A slot machine licensee shall submit to the Board an up-to-date floor plan, drawn to 1/8 inch scale, 12 months after its receipt of authorization to commence slot operations and every 12 months thereafter. A floor plan must [be]:

(1) [Drawn to 1/8 inch scale, unless another scale is approved by the Board

(2) Certified] Be certified by an architect licensed to practice in this Commonwealth, [and depict] unless Board staff indicates otherwise.

(2) Depict the following:

(i) The gaming floor with notations as to:

(A) Proposed total square footage.

(B) The perimeter of the gaming floor.

(C) A clearly delineated route for underage [persons] individuals to [transverse] access areas adjacent to the gaming floor.

(D) Designated smoking and nonsmoking areas.

(ii) Each slot machine area and table game pit on the gaming floor and each slot machine [location] and table game located within each slot machine area and table game pit. Slot machine and table game locations shall be identified by number in accordance with § 463a.3 (relating to slot machine location).

(iii) The number of slot machines and table games on the gaming floor in compliance with [section] sections 1210 and 13A11(b) of the act (relating to number of slot machines; and authorization to conduct table games), in total and by slot area or table game pit.

(iv) Each slot machine or table game seat on the gaming floor [in compliance with § 461a.7(s) (relating to slot machine minimum design standards)].

(v) Each surveillance camera installed in compliance with § 465a.9(a) (relating to surveillance system; surveillance department control, surveillance department [restriction] restrictions), noting its type and camera number.

(vi) The [cashiers'] main cage and any satellite [cashiers'] cage, inclusive of each [cashiers'] cage window and window number, ancillary offices and areas.

(vii) Each count room and any trolley storage area.

(viii) Each automated bill breaker, gaming voucher redemption, coupon redemption and jackpot payout machine.

(ix) Each automated teller machine.

(x) Each area designated for the storage or repair of slot machines or table games.

(xi) Vault and armored car bay locations.

(xii) Additional documentation requested by the Board or Board staff relating to the floor plan for the gaming floor.

(b) A slot machine licensee may not commence slot or table game operations until the floor plan depicting its gaming floor and all restricted areas servicing the slot [operation] and table game operations has been approved [in writing] by the Board. The approval by the Board will expressly authorize [the]:

(1) The maximum square footage of gaming floor [and].

(2) The maximum number of slot machines and table games which may be operated by the slot machine licensee.

(c) Requests for changes to the approved gaming floor plan [approved under subsection (b) which involve a change of more than 2% of the square footage of the gaming floor or which involve a change of more than 2% in] which will increase or decrease the square footage of the gaming floor by more than 2%, the number of slot machines on the gaming floor by more than 2% or the number of table games on the gaming floor by more than 10% require Board approval and must be submitted to the Board as a petition under § 493a.4 (relating to petitions generally). Requests for all other changes to the gaming floor, including the type of table games, shall be submitted in writing [to the Office of the Clerk as a request for changes to the gaming floor and approved] and will be considered for approval by the Board's Executive Director. The approval of the Board or the Executive Director may include conditions that shall be met by the slot machine licensee [as part of the changes] prior to the commencement of operations.

(d) A petition or request for changes to the gaming floor must, at a minimum, include:

(1) A narrative description of the proposed changes.

(2) A revised gaming floor plan in accordance with this section.

(3) [A timetable for completion of the proposed changes] A revised plan for the distribution and collection of slot cash storage boxes and table game drop boxes as required under § 465a.18(a) (relating to transportation of slot cash storage boxes and table game drop boxes to and from the gaming floor; storage).

(4) The table game pit number or slot machine area and the proposed configuration of any table game pit or slot machine area affected.

(5) The type, location and table number of any gaming table affected.

(6) An updated slot machine master list as required under § 463a.5 (relating to slot machine master lists).

(7) The proposed amendments to the standard or alternative staffing levels required under § 465a.35 (relating to personnel assigned to the operation and conduct of table games).

(8) **The proposed amendments to surveillance required under § 465a.9.**

(9) **A timetable for the completion of the proposed changes.**

(e) If a slot machine licensee objects to the **Executive Director's** disapproval of a request for changes to the gaming floor or conditions imposed on the approval of a request for changes to the gaming floor, the slot machine licensee may file **with the Board** a [request] petition for reconsideration [as a petition under] in accordance with § 493a.4.

§ 467a.2. Commencement of slot **and table game** operations generally.

(a) Prior to the commencement of slot **or table game** operations at a licensed facility a slot machine licensee shall demonstrate that:

(1) The licensed facility, including the gaming floor and restricted areas servicing [the] slot [operation] **and table game operations**, complies in all respects with the act, this subpart and technical standards adopted by the Board [and published in the *Pennsylvania Bulletin* and posted on the Board's website].

(2) Slot machines, **table games** and associated equipment installed in the licensed facility and utilized in the conduct of slot machine **and table game** operations have been tested and approved by the Board in compliance with the act, this subpart and technical standards adopted by the Board [and published in the *Pennsylvania Bulletin* and posted on the Board's website].

(3) The gaming floor plan required under § 467a.1(a) (relating to gaming floor plan) has been approved by the Board in compliance with the act, this subpart and technical standards adopted by the Board [and published in the *Pennsylvania Bulletin* and posted on the Board's website].

(4) The slot machine licensee's proposed site plan and internal control systems and audit protocols have been approved by the Board in compliance with the act, this subpart and technical standards adopted by the Board [and published in the *Pennsylvania Bulletin* and posted on the Board's website].

(5) The slot machine licensee is prepared to implement necessary management controls, surveillance and security precautions to insure the efficient conduct of slot **and table game** operations.

(6) The slot machine licensee's employees are licensed or permitted by the Board and trained in the performance of their responsibilities.

(7) The slot machine licensee has complied with any conditions prerequisite to commencement of slot **or table game** operations contained in the Statement of Conditions executed under § 423a.6 (relating to license, permit, registration and certification issuance and statement of conditions).

(8) The licensed facility is prepared in all respects to receive the public.

(9) The slot machine licensee has successfully completed a test period.

(10) For Category 1 licensees, the slot machine licensee has a written live racing agreement as required under section 1303(d) of the act (relating to additional category 1 slot machine license requirements).

(b) Upon a slot machine licensee's successful demonstration of the criteria enumerated in subsection (a), the Board may authorize the date and time at which the slot machine licensee may commence slot **and table game** operations at the licensed facility and will fix the maximum square footage of gaming floor and maximum number of slot machines **and table games** which may be operated by the slot machine licensee pursuant to that authorization.

Subpart K. TABLE GAMES

CHAPTER 521. GENERAL PROVISIONS

§ 521.3. [Table games surveillance requirements] (Reserved).

[(a) In addition to the surveillance system requirements in § 465a.9 (relating to surveillance system; surveillance department control; surveillance department restriction), a certificate holder shall have a surveillance system that includes:

(1) Light sensitive cameras with lenses of sufficient magnification to allow the certificate holder to clandestinely monitor in detail the following:

(i) The gaming conducted at each gaming table in the licensed facility with sufficient clarity to identify patrons and dealers and sufficient coverage to simultaneously view the table and determine the configuration of wagers, card, dice and tile values and game outcomes.

(ii) The movement of cash, gaming chips and plaques, tip boxes and drop boxes within the licensed facility.

(iii) Any other activity or areas designated by the Bureau of Casino Compliance.

(2) The following number of stationary cameras dedicated to table games:

(i) At least one stationary camera for each table game offered by the licensed facility except Craps, Baccarat, Roulette and Big Six Wheel.

(ii) At least two stationary cameras for each Craps table, with one camera covering each end of the table.

(iii) At least two stationary cameras for each Baccarat table, with one camera covering each end of the table.

(iv) At least two stationary cameras for each Roulette table, with one camera covering the Roulette wheel and one camera covering the Roulette table layout.

(v) At least two stationary cameras for each Big Six Wheel, with one camera covering the Big Six Wheel and one camera covering the Big Six Wheel table layout.

(3) Additional cameras as required by the Bureau of Casino Compliance. The additional cameras may include cameras with 360° pan, tilt and zoom capabilities.

(b) A certificate holder's surveillance system must continuously record transmissions from cameras used to observe the following locations, persons, activities and transactions:

(1) The gaming conducted at all table games.

(2) The collection of drop boxes and tip boxes.
 (3) The distribution of cards, dice and tiles to gaming pits.

(4) The inspection of cards, dice and tiles in the gaming pits and at the gaming tables.

(5) The retrieval of cards, dice and tiles from the gaming pits at the end of the gaming day and the delivery of the cards, dice and tiles to the location designated and approved by the Bureau of Gaming Operations for inspection, cancellation, destruction or, if applicable, packaging for reuse.

(c) The surveillance recordings required under subsection (b) shall be retained for a minimum of 7 days. Any surveillance recordings of suspicious activity, suspected or alleged regulatory violations or suspected or alleged criminal activity shall be retained for a minimum of 30 days. Surveillance recordings shall be made available for review upon request by the Board or the Pennsylvania State Police.

(d) Prior to the commencement of the operation of any table games, each certificate holder shall be required to submit, for Board approval in accordance with § 465a.2(a)(5) (relating to internal control systems and audit protocols), a revised minimum staffing submission for the slot machine licensee's surveillance monitor rooms. The minimum staffing submission must consider the size and layout of the licensed facility as well as the number of table games and must at all times provide for surveillance of activities inside and outside the licensed facility. A certificate holder may not implement a change or amendment in its surveillance monitor room minimum staffing submission without prior Board approval of the change or amendment.]

§ 521.11. [Table games floor plan changes] (Reserved).

[(a) Requests to increase or decrease the number of approved table games by 10% or more require Board approval and shall be submitted to the Board by way of a petition under § 493a.4 (relating

to petitions generally). All other requests for changes to the table games floor plan, including the type of table games or the configuration of the table games floor plan, shall be submitted in writing and considered for approval by the Board's Executive Director. The approval of the Board or the Executive Director may include conditions that must be met by the certificate holder prior to commencement of operations of the approved gaming tables or floor area.

(b) A petition or request for table games floor plan changes must, at a minimum, include:

(1) A narrative description of the proposed changes.

(2) The pit number and proposed configuration of any pit affected.

(3) The type, location and table number of any table affected.

(4) The proposed amendments to the standard or alternative staffing levels required under § 525.6 (relating to personnel assigned to the operations and conduct of table games) for the affected gaming tables or pits.

(5) The proposed amendments to table games surveillance required under § 521.3 (relating to table games surveillance requirements).

(6) A time table for completion of the proposed changes.]

CHAPTER 525. (Reserved)

(Editor's Note: As part of this proposed rulemaking, the Board is proposing to rescind Chapter 525 which appears in 58 Pa. Code pages 525-1—525-30, serial pages (349981)—(349986), (354767), (354768), (352353), (352354), (350941), (350942), (349993)—(349998), (350943), (350944), (352495)—(352498), (350005)—(350008), (350945) and (350946).)

Sec.

525.1—525.20. (Reserved).

[Pa.B. Doc. No. 11-848. Filed for public inspection May 20, 2011, 9:00 a.m.]

NOTICES

DEPARTMENT OF BANKING

Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending April 26, 2011.

Under section 503.E of the Department of Banking Code (71 P. S. § 733-503.E), any person wishing to comment on the following applications, with the exception of branch applications, may file their comments in writing with the Department of Banking, Corporate Applications Division, 17 North Second Street, Suite 1300, Harrisburg, PA 17101-2290. Comments must be received no later than 30 days from the date notice regarding receipt of the application is published in the *Pennsylvania Bulletin*. The nonconfidential portions of the applications are on file at the Department and are available for public inspection, by appointment only, during regular business hours. To schedule an appointment, contact the Corporate Applications Division at (717) 783-2253. Photocopies of the nonconfidential portions of the applications may be requested consistent with the Department's Right-to-Know Law Records Request policy.

BANKING INSTITUTIONS

Branch Applications

Branch Discontinuances

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
4-25-2011	Graystone Tower Bank Lancaster Lancaster County	1109 East Baltimore Pike Kennett Square Chester County	Approved
4-25-2011	Graystone Tower Bank Lancaster Lancaster County	1660 East Street Road Kennett Square Chester County	Approved

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

No activity.

The Department's web site at www.banking.state.pa.us includes public notices for more recently filed applications.

GLENN E. MOYER,
Secretary

[Pa.B. Doc. No. 11-849. Filed for public inspection May 20, 2011, 9:00 a.m.]

Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending May 3, 2011.

Under section 503.E of the Department of Banking Code (71 P. S. § 733-503.E), any person wishing to comment on the following applications, with the exception of branch applications, may file their comments in writing with the Department of Banking, Corporate Applications Division, 17 North Second Street, Suite 1300, Harrisburg, PA 17101-2290. Comments must be received no later than 30 days from the date notice regarding receipt of the application is published in the *Pennsylvania Bulletin*. The nonconfidential portions of the applications are on file at the Department and are available for public inspection, by appointment only, during regular business hours. To schedule an appointment, contact the Corporate Applications Division at (717) 783-2253. Photocopies of the nonconfidential portions of the applications may be requested consistent with the Department's Right-to-Know Law Records Request policy.

BANKING INSTITUTIONS**Interim Incorporations**

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
5-3-2011	PWMG Trust Holdings, Inc. Hershey Dauphin County PWMG Trust Holdings, Inc. is a proposed Pennsylvania state-chartered interim trust company.	Approved
5-3-2011	PWMG Trust Merger Sub, Inc. Hershey Dauphin County PWMG Trust Merger Sub, Inc. is a proposed Pennsylvania state-chartered interim trust company. The purpose of PWMG Trust Merger Sub, Inc. is to merge with Hershey Trust Company, Hershey.	Approved
5-3-2011	PWMG Bank and Trust, Inc. Hershey Dauphin County PWMG Bank and Trust, Inc. is a proposed Pennsylvania state-chartered interim bank and trust company. The purpose of PWMG Bank and Trust, Inc. is to merge with The Bryn Mawr Trust Company, Bryn Mawr.	Approved

Holding Company Acquisitions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
5-3-2011	Bryn Mawr Bank Corporation Bryn Mawr Montgomery County Application for approval to acquire 100% of PWMG Bank and Trust, Inc., Hershey.	Approved

Consolidations, Mergers, and Absorptions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
5-3-2011	Hershey Trust Company Hershey Dauphin County Application for approval to merge PWMG Trust Merger Sub, Inc., Hershey, with and into Hershey Trust Company, Hershey.	Approved
5-3-2011	The Bryn Mawr Trust Company Bryn Mawr Montgomery County Application for approval to merge PWMG Bank and Trust, Inc., Hershey, with and into The Bryn Mawr Trust Company, Bryn Mawr.	Approved

Branch Applications**De Novo Branches**

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
5-3-2011	Somerset Trust Company Somerset Somerset County	2095 Quaker Valley Road Fishertown Bedford County	Approved

Branch Discontinuances

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
5-2-2011	First Commonwealth Bank Indiana Indiana County	363 Butler Street Pittsburgh Allegheny County	Approved
5-2-2011	First Commonwealth Bank Indiana Indiana County	608 Miller Avenue Clairton Allegheny County	Approved
5-2-2011	First Commonwealth Bank Indiana Indiana County	250 Summit Park Drive Pittsburgh Allegheny County	Approved

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

Community Charter Conversions

<i>Date</i>	<i>Name and Location of Institution</i>	<i>Action</i>
5-2-2011	Hidden River Credit Union Pottsville Schuylkill County	Effective
Amendment to Article 8 of the credit union's Articles of Incorporation provides the following field of membership: "The membership of the credit union will be limited to: Anyone who lives, works, worships, volunteers, or attends school within Schuylkill County and to business and other legal entities located therein."		

Branch Applications

De Novo Branches

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
5-3-2011	Crayola, LLC Employees Credit Union Easton Northampton County	2475 Brodhead Road Bethlehem Northampton County	Approved

The Department's web site at www.banking.state.pa.us includes public notices for more recently filed applications.

GLENN E. MOYER,
Secretary

[Pa.B. Doc. No. 11-850. Filed for public inspection May 20, 2011, 9:00 a.m.]

Maximum Lawful Rate of Interest for Residential Mortgages for the Month of June 2011

The Department of Banking (Department), under the authority contained in section 301 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 301), determines that the maximum lawful rate of interest for residential mortgages for the month of June, 2011, is 6 1/4%.

The interest rate limitations under the State's usury statute were preempted to a great extent by Federal law, the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. No. 96-221). Further preemption was instituted with the signing of Pub. L. No. 96-399, which overrode State interest rate limitations on any individual who finances the sale or exchange of residential real property which the individual owns and which the individual occupies or has occupied as his principal residence.

Each month the Department is required by State law to compute and announce the ceiling rate on residential mortgages in this Commonwealth. This maximum rate is determined by adding 2.50 percentage points to the yield rate on long-term government bonds as published by the Federal Reserve Board and/or the United States Treasury. The latest yield rate on long-term government securities is 3.87 to which was added 2.50 percentage points for a total of 6.37 that by law is rounded off to the nearest quarter at 6 1/4%.

GLENN E. MOYER,
Secretary

[Pa.B. Doc. No. 11-851. Filed for public inspection May 20, 2011, 9:00 a.m.]

DEPARTMENT OF EDUCATION

Office of Postsecondary and Higher Education; Request for Proposal—for the College Access Challenge Grant

The Department of Education (Department) solicits proposals from nonprofit organizations or partnerships of organizations for a competitive College Access Challenge Grant (CACG) Program from the United States Department of Education. If awarded, the Commonwealth is eligible for up to \$3.8 million in CACG funding for 2011-12. These funds are available under Section 781 of the Higher Education Act of 1965, (20 U.S.C.A. § 1141).

Proposals are solicited to provide information to students and families on postsecondary education benefits. Proposals should include strategies that focus on opportunities, planning and career preparation, information on financing options, outreach activities for students who may be at risk of not enrolling in or completing college, completion of the Free Application for Federal Student Aid (FAFSA), assisting students in applying to institutions of higher education and activities that improve secondary school students' preparedness for postsecondary entrance examinations.

These services must be made available to all qualifying students and families regardless of: (a) choice of postsecondary institution; (b) type of student loan received; (c) server of such loan; and (d) student's academic performance. In addition, priority must be given to students and families who are living below the poverty line applicable to the individual's family size and students and families cannot be charged a fee to participate in activities and services.

It is the intent that the Department will administer the CACG program in coordination with selected partners.

Purpose

The CACG Program is a formula grant program that is designed to foster partnerships among Federal, state and local government entities and philanthropic organizations to significantly increase the number of underrepresented students who enter and remain in postsecondary education. CACG provides grants to states to meet the needs of underrepresented students and families.

The CACG Program will be measured against the following performance measures:

1) The percentage increase in the proportion of high school students at program schools enrolling in postsecondary education.

2) The percentage increase in the proportion of high school senior program participants who complete a FAFSA.

Sub-Grants to Nonprofit Organizations

To be eligible for the CACG Program nonprofit organizations or partnerships of organizations must have been in existence on or before September 27, 2007, and be participating in activities and services related to increasing access to higher education.

Non-Federal Matching Requirement

Federal funds may be used to pay for up to 2/3 of the cost of the activities and services provided as part of a CACG grant. Non-Federal funds must be equal to 1/3 of the costs of authorized activities and services. This non-Federal match may be met through cash or in-kind contributions and cannot be waived. Matching contributions may be provided from State resources, contributions from private organizations, or both. Applicants should include information on how the non-Federal match will be met.

The closing date for receipt of applications under this announcement is June 10, 2011. Applications must be submitted through the Department's e-Grants system no later than 4 p.m. The e-Grant system records the time of submission. This recorded time will be used to determine submission time. Any applications received after the deadline will not be scored and will be ineligible for consideration.

Applications must be completed online and submitted by means of the e-Grants web site at <http://egrants.ed.state.pa.us> to the Office of Postsecondary and Higher Education. Instructions for the use of the use of the e-Grant system are available at www.education.state.pa.us. Information on the Federal College Access Challenge Grant Program is available at <http://www2.ed.gov/programs/cacg/index.html>.

The grant period will be for a term of 1 year—August 14, 2011, through August 13, 2012. Renewal will occur provided that the State meets maintenance of effort requirements and that measurable progress is made toward meeting performance measures. At the end of the grant period, grantees will be authorized to reapply and compete with other applicants for another 1-year term.

In awarding grants under CACG, the Department will consider:

- The applicant's plan on how the administrative capacity will be developed.
- The applicant's plans on how funding will benefit students.

- The recordkeeping system for collecting and reporting student outcome/achievement data and participation in services and activities.

- The entities (State and local, philanthropic and other organizations) that will be actively involved in providing activities and services.

- Activities, services and anticipated outcomes and how these align with the goals and objectives of the project.

- How funds will be used to accomplish the goals and objectives of the project.

Application Components

Abstract. Applicants must provide an overview of the project that includes its goals, purpose and scope in the abstract section. (Provide an abstract that gives an overview of the project—that is, the need for the project, organizations that will be involved in the project, goals and objectives, and activities and services.)

Project narrative. Applicants must address the following:

1. A description of the capacity and structure that the State has in place to administer the authorized services and activities, or the applicants plan on how the administrative capacity will be developed.

2. In the case of a philanthropic organization, how funds will be used to benefit students.

3. The recordkeeping system for collecting and reporting student outcome/achievement data and participation in services and activities. Specifically, address the methodology and data collections system/plan for the collection and maintenance of student and family participation in activities and outcome data.

4. A plan for the evaluation of the goals and objectives as outlined by applicant.

5. The entities (State and local, philanthropic and other organizations) that will be actively involved in providing activities and services.

Goals and objectives. Applicants must submit the goals and objectives for the project. Activities, services and anticipated outcomes should be clearly aligned with the goals and objectives of the project. The goals provide the overall context for what the project is trying to accomplish in the long-term, and objectives describe what the project is trying to achieve incrementally.

Budget summary and narrative. Applicants must: (1) present proposed expenditures (Federal and non-Federal) for the first year of implementation; (2) address the questions relative to indirect costs; and (3) provide a narrative outlining how funds will be used to accomplish the goals and objectives of the project. Each budget category must be justified in the budget narrative. Applicants should include the basis for estimating the cost of all project expenditures and how costs relate to proposed activities and services.

All potential applicants are urged to attend the bidders' webinar to receive information on program guidelines and requirements for submitting e-Grant applications for the CACG Program. This webinar will be conducted at <http://vclass.cciu.org> on May 27, 2011, from 9 a.m. to 11 a.m. A presentation, including the information covered during the webinar, will be posted at www.education.state.pa.us for a period of 30 days.

RONALD J. TOMALIS,
Secretary

[Pa.B. Doc. No. 11-852. Filed for public inspection May 20, 2011, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

This notice provides information about persons who have applied for a new, amended or renewed NPDES or WQM permit, a permit waiver for certain stormwater discharges or submitted a Notice of Intent (NOI) for coverage under a General Permit. The applications concern, but are not limited to, discharges regarding industrial, animal or sewage waste, discharges to groundwater, discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities or concentrated animal feeding operations (CAFO). This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92a and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act (33 U.S.C.A. §§ 1251—1376).

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or Amendment
Section III	WQM	Industrial, Sewage or Animal Waste; Discharge into Groundwater
Section IV	NPDES	MS4 Individual Permit
Section V	NPDES	MS4 Permit Waiver
Section VI	NPDES	Individual Permit Stormwater Construction
Section VII	NPDES	NOI for Coverage under NPDES General Permits

For NPDES renewal applications in Section I, the Department of Environmental Protection (Department) has made a tentative determination to reissue these permits for 5 years subject to effluent limitations and monitoring and reporting requirements in their current permits, with appropriate and necessary updated requirements to reflect new and changed regulations and other requirements.

For applications for new NPDES permits and renewal applications with major changes in Section II, as well as applications for MS4 Individual Permits and Individual Stormwater Construction Permits in Sections IV and VI, the Department, based upon preliminary reviews, has made tentative determinations of proposed effluent limitations and other terms and conditions for the permit applications. These determinations are published as proposed actions for comments prior to taking final actions.

Unless indicated otherwise, the United States Environmental Protection Agency (EPA) Region III Administrator has waived the right to review or object to proposed NPDES permit actions under the waiver provision in 40 CFR 123.24(d).

Persons wishing to comment on NPDES applications are invited to submit statements to the contact office noted before the application within 30 days from the date of this public notice. Persons wishing to comment on WQM permit applications are invited to submit statements to the office noted before the application within 15 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the applications. A comment submittal should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests for public hearings on applications. A public hearing may be held if the responsible office considers the public response significant. If a hearing is scheduled, a notice of the hearing will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. The Department will postpone its final determination until after a public hearing is held.

Persons with a disability who require an auxiliary aid, service, including TDD users, or other accommodations to seek additional information should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

I. NPDES Renewal Applications

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone: 717-705-4707.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0084034 (Sew)	West Perry School District Carroll Township Elementary 2606 Shermans Valley Road Ellittsburg, PA 17024	Perry County Carroll Township	Sherman Creek / 7-A	Y

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N?</i>
PA0239348 (Sewage)	Calfin's Place Restaurant 7495 Route 6N Edinboro, PA 16412	Erie County Elk Creek Township	Unnamed tributary to Cussewago Creek 16-D	Y
PA0031305 (Sewage)	Summit Academy 839 Herman Road Herman, PA 16039	Butler County Summit Township	Unnamed tributary of Bonnie Brook 20-C	Y

II. Applications for New or Expanded Facility Permits, Renewal of Major Permits and EPA Non-Waived Permit Applications

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone: 717-705-4707.

Application No. PA0248576, Concentrated Animal Feeding Operation (CAFO), **Noah W. Kreider and Sons, LLP**, 1461 Lancaster Road, Manheim, Pennsylvania 17545.

Noah W. Kreider and Sons, LLP has submitted an application for an Individual NPDES permit for an expanding CAFO known as Kreider Farms Middletown Facility, located at 301 Longview Drive, Middletown, Pennsylvania 17057 in Lower Swatara Township, **Dauphin County**.

The CAFO is situated near unnamed tributary of Swatara Creek in Watershed 7-D, which is classified for warm water fishery. The CAFO will be designed to maintain an animal population of approximately 9,416.88 animal equivalent units (AEUs) consisting of 2,706,000 layers (poultry). Manure will be collected and conveyed by conveyor belt to a roofed stacking shed. A release or discharge to waters of the Commonwealth under normal operating conditions is not expected. Normal operating conditions are defined as conditions below a 100-year, 24-hour storm event.

The Department has conducted administrative and technical reviews of the application. Based on the preliminary review and application of lawful standards and regulations, the Department has made a tentative determination to issue an NPDES permit for the operation subject to the terms and conditions and monitoring and reporting requirements specified in the permit.

The permit application and draft permit are on file at the Southcentral Regional Office of the Department. You may make an appointment to review the files by calling the File Review Coordinator at 717-705-4732.

The Environmental Protection Agency (EPA) permit waiver provision under 40 CFR 123.24(e) does not apply to this NPDES permit.

Application No. PA0248584, Concentrated Animal Feeding Operation (CAFO), **Noah W. Kreider and Sons, LLP**, 1461 Lancaster Road, Manheim, Pennsylvania 17545.

Noah W. Kreider and Sons, LLP has submitted an application for an Individual NPDES permit for an existing CAFO known as Kreider Farms East Donegal Facility, located at 1104 Colebrook Road, Mount Joy, Pennsylvania 17552 in East Donegal Township, **Lancaster County**.

The CAFO is situated near unnamed tributary to Donegal Creek in Watershed 7-G, which is classified for cold water fishery. The CAFO is designed to maintain an animal population of approximately 2,961.48 animal equivalent units (AEUs) consisting of 851,000 layers (poultry). Manure is collected and conveyed to a roofed stacking shed and underneath storage. A release or discharge to waters of the Commonwealth under normal operating conditions is not expected. Normal operating conditions are defined as conditions below a 100-year, 24-hour storm event.

The Department has conducted administrative and technical reviews of the application. Based on the preliminary review and application of lawful standards and regulations, the Department has made a tentative determination to issue an NPDES permit for the operation subject to the terms and conditions and monitoring and reporting requirements specified in the permit.

The permit application and draft permit are on file at the Southcentral Regional Office of the Department. You may make an appointment to review the files by calling the File Review Coordinator at 717-705-4732.

The Environmental Protection Agency (EPA) permit waiver provision under 40 CFR 123.24(e) does not apply to this NPDES permit.

Southwest Regional Office: Regional Manager, Water Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; 412-442-4000

PA0254479, Scott Elgin, 2950 Warren Road, Indiana, PA 15701. Facility Name: Elgin SR STP. This proposed facility is located in Armstrong Township, **Indiana County**.

Description of Proposed Activity: The application is for a new NPDES permit for a new discharge of treated sewage.

The receiving stream(s), Cheese Run, is located in State Water Plan watershed 17-E and is classified for Cold Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0004 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>		<i>Minimum</i>	<i>Average Monthly</i>		
Flow (MGD)	0.0004	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
CBOD ₅	XXX	XXX	XXX	25	XXX	50
Total Suspended Solids	XXX	XXX	XXX	30	XXX	60
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30	XXX	XXX	XXX	200	XXX	1000
				Geo Mean		
Oct 1 - Apr 30	XXX	XXX	XXX	2000	XXX	10000
				Geo Mean		

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 412-442-4000.

The EPA Waiver is in effect.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

PA0102580, Sewage, SIC Code 4952, 6515, **Ernest J Baxter**, 457 Jamisonville Road, Butler, PA 16001-8144. Facility Name: Baxter MHP. This existing facility is located in Center Township, **Butler County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated Sewage.

The receiving stream, an un-named tributary of Stony Run, is located in State Water Plan watershed 20-C and is classified for warm water fish, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.025 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Residual Chlorine	XXX	XXX	XXX	0.5	XXX	XXX
CBOD ₅						
May 1 - Oct 31	XXX	XXX	XXX	10	XXX	20
Nov 1 - Apr 30	XXX	XXX	XXX	20	XXX	40
Total Suspended Solids						
May 1 - Oct 31	XXX	XXX	XXX	10	XXX	20
Nov 1 - Apr 30	XXX	XXX	XXX	20	XXX	40
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30	XXX	XXX	XXX	200	XXX	XXX
				Geo Mean		
Oct 1 - Apr 30	XXX	XXX	XXX	2000	XXX	XXX
				Geo Mean		
Ammonia-Nitrogen						
May 1 - Oct 31	XXX	XXX	XXX	1.5	XXX	3
Nov 1 - Apr 30	XXX	XXX	XXX	4.5	XXX	9
Total Phosphorus	XXX	XXX	XXX	2	XXX	4

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 814-332-6340.

The EPA Waiver is in effect.

PA0025739, Sewage, SIC Code 4952, **Port Allegany Borough McKean County**, 45 W Maple Street, Port Allegany, PA 16743-1318. Facility Name: Port Allegany Borough STP. This existing facility is located in Port Allegany Borough, **McKean County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated sewage.

The receiving stream, Allegheny River, is located in State Water Plan watershed 16-C and is classified for cold water fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.9 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Weekly Average</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Weekly Average</i>	<i>Instant. Maximum</i>
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH	XXX	XXX	6.0	XXX	XXX	9.0
Total Residual Chlorine	XXX	XXX	XXX	0.5	XXX	1.6
CBOD ₅	188	300	XXX	25	40	50
Total Suspended Solids	225	338	XXX	30	45	60
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30	XXX	XXX	XXX	200	XXX	XXX
				Geo Mean		
Oct 1 - Apr 30	XXX	XXX	XXX	2000	XXX	XXX
				Geo Mean		
Ammonia-Nitrogen	101	XXX	XXX	13.5	XXX	27

In addition, the permit contains the following major special conditions:

- Chlorine Minimization
- Sanitary Sewer Overflows
- eDMR requirement

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 814-332-6340.

The EPA Waiver is in effect.

III. WQM Industrial Waste and Sewerage Applications under The Clean Streams Law

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone: 717-705-4707.

WQM Permit No. 0111401, Sewerage, **Cumberland Township Authority**, 1370 Fairfield Road, Gettysburg, PA 17325-1809.

This proposed facility is located in Cumberland Township, **Adams County**.

Description of Proposed Action/Activity: Seeking permit approval for the construction/installation of larger pump station and elimination of Twin Lakes West Pump Station in order to handle increased flow from proposed Old Mill Road Pump Station.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745

WQM Permit No. 6596412-A1, Sewerage, **Municipal Authority of the Borough of Smithton**, PO Box 342, Smithton, PA 15479-0342

This existing facility is located in Smithton Borough, **Westmoreland County**

Description of Proposed Action/Activity: Permit amendment application.

IV. NPDES Applications for Stormwater Discharges from MS4

V. Applications for NPDES Waiver Stormwater Discharges from MS4

VI. NPDES Individual Permit Applications for Discharges of Stormwater Associated with Construction Activities

Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790

Pike County Conservation District: 556 Route 402, Ste. 1, Hawley PA 18428, 570-226-8220

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI025211002	Masthope Mountain Communities POA HC-1 Box 1A353 Lackawaxen PA 118435	Pike County	Lackawaxen	UNT to Delaware (HQ-CWF, MF)

Northampton County Conservation District: 14 Gracedale Ave., Nazareth, PA 18064, 610-746-1971

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024805020(1)	Trio Farms PA LLC 559 Main St. Bethlehem PA 18018	Northampton County	Lower Nazareth Twp.	Monocacy Creek (HQ-CWF, MF)

Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701

Lycoming County Conservation District: 542 County Farm Road Suite 202, Montoursville, PA 17754, (570) 433-3003

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI044111001	Joyce Raesner Cumming Township Supervisors PO Box 117 Waterville, PA 17776	Lycoming	Cummings Township Mifflin Township	First Fork Larry's Creek EV, MF Second Fork Larry's Creek EV, MF
PAI044111002	Noah N. Martin 1821 State Route 184 Trout Run, PA 17771	Lycoming	Cogan House Township	Wolf Run EV

Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Beaver County Conservation District, 156 Cowpath Road, Aliquippa, PA 15001 (724-378-1701)

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI050411001	Charles J. Merlo 234 Merlo Road Mineral Point, PA 15942	Beaver	Raccoon Township	UNT to Service Creek, (HQ-CWF)

Somerset County Conservation District, 6024 Glades Pike, Suite 103, Somerset, PA 15501 (814-445-4352)

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI055611002	CSX Transportation, Inc. 500 Water Street J-275 Jacksonville, FL 32202	Somerset	Confluence Borough	Laurel Hill Creek, (HQ-CWF)
PAI055610002	CSX Transportation, Inc. 500 Water Street J-275 Jacksonville, FL 32202	Somerset	Lower Turkeyfoot Township	Casselman River, (WWF)
PAI055610003	CSX Transportation, Inc. 500 Water Street J-275 Jacksonville, FL 32202	Somerset	Upper Turkeyfoot Township	Casselman River, (WWF)
PAI055611001	Ursina Borough P. O. Box 55 Ursina, PA 15486	Somerset	Ursina Borough	Laurel Hill Creek, (HQ-CWF)

Westmoreland County Conservation District, 218 Donohoe Road, Greensburg, PA 15601 (724-837-5271)

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056511004	Johnstown the Florist 14179 Lincoln Way North Huntingdon, PA 15642	Westmoreland	North Huntingdon Township	UNT to Long Run Creek (HQ)
PAI056511003	John P. Jaskolka, P.E. PA Department of Conservation & Natural Resources Western Engineering Office Park Road Prospect, PA 16052	Westmoreland	Ligonier Township	Rolling Rock Creek, (HQ-CWF)
PAI056511002	John Visnic 3653 Sardis Road Murrysville, PA 15668	Westmoreland	Washington Township	UNT to Beaver Run, (HQ-CWF)

VII. List of NOIs for NPDES and/or Other General Permit Types

PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

STATE CONSERVATION COMMISSION

NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS FOR NPDES PERMITS FOR CAFOs

The State Conservation Commission has taken the following actions on previously received applications for nutrient management plans under 3 Pa.C.S. Chapter 5, for agricultural operations that have or anticipate submitting applications for new, amended or renewed NPDES permits or NOIs for coverage under a general permit for CAFOs under 25 Pa. Code Chapter 92a. This notice is provided in accordance with 25 Pa. Code Chapter 92a and 40 CFR Part 122, implementing The Clean Streams Law and the Federal Clean Water Act.

Persons aggrieved by an action may appeal under 3 Pa.C.S. § 517, section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service at (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge actions, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary of the Board at (717) 787-3483 for more information.

NUTRIENT MANAGEMENT PLAN—PUBLIC NOTICE SPREADSHEET

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Renewal / New</i>
Forry Farms Daniel & Dwight Forry 1015 Prospect Road Columbia, PA 17512	Lancaster	382	661.39	Swine / heifers/ sheep	NA	Renewal

PUBLIC WATER SUPPLY (PWS) PERMITS

Under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17), the following parties have applied for PWS permits to construct or substantially modify public water systems.

Persons wishing to comment on permit applications are invited to submit statements to the office listed before the application within 30 days of this public notice. Comments received within this 30-day comment period will be considered in the formulation of the final determinations regarding an application. A comment should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

Following the comment period, the Department will make a final determination regarding the proposed permit. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The permit application and related documents are on file at the office listed before the application and available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability that require an auxiliary aid, service or other accommodations to participate during the

30-day public comment period should contact the office listed before the application. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

SAFE DRINKING WATER

Applications Received Under the Pennsylvania Safe Drinking Water Act

Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110

Permit No. 0111504, Public Water Supply.

Applicant	Littlestown Borough Authority
Municipality	Littlestown Boro & Twp., Germany Twp.
County	Adams
Responsible Official	Karen Louey, Chairwomen 10 South Queen Street Littlestown, PA 17340
Type of Facility	Public Water Supply
Consulting Engineer	Joshua T. Fox, P.E. Herbert, Rowland & Grubic, Inc. 369 East Park Drive Harrisburg, PA 17111
Application Received:	4/22/2011

Description of Action Construction of new treatment buildings, including disinfection facilities and contact piping at Entry Points (EP) 101 and 102. Construction of a new building and replacement of the disinfection equipment at EP 104.

Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745

Permit No. 0411501, Public Water Supply.

Applicant **Center Township Water Authority**
224 Center Grange Road
Aliquippa, PA 15001

[Township or Borough] Potter Township

Responsible Official Ronald Crisi, General Manager
Center Township Water Authority
224 Center Grange Road
Aliquippa, PA 15001

Type of Facility Water treatment plant

Consulting Engineer The EADS Group, Inc., 1126
Eighth Avenue, Altoona, PA 16602

Application Received Date May 2, 2011

Description of Action Construction of a collector well and transmission line.

Northwest Region: Water Supply Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Application No. 6111502, Public Water Supply

Applicant **Clintonville Borough Sewer & Water Authority**

Township or Borough Clintonville Borough, **Venango County**

Responsible Official Dan Kaylor, Chairman

Consulting Engineer Joseph P. Pacchioni, PE
Herbert, Rowland & Grubic Inc
200 West Kensinger Drive, Suite 400
Cranberry Township PA 16066

Application Received Date 04/15/2011

Description of Action Installation of pretreatment system to remove iron & manganese contaminants before the greensand filters.

Application No. 2011501, Public Water Supply

Applicant **Vision Quest National**

Township or Borough East Mead Township, **Crawford County**

Responsible Official Martin Keelan, Chief Administrator

Consulting Engineer Steven Halmi, PE
Deisss & Halmi Engineering
105 Meadville Street
Edinboro PA 16412

Application Received Date 04/22/2011

Description of Action Modification & permitting of water system to serve boarding school; also to meet GWR 4-Log inactivation

Application No. 1011504, Public Water Supply

Applicant **Mars Borough**

Township or Borough Mars Borough, **Butler County**

Responsible Official Michael Fleming, Borough Council President

Consulting Engineer Steven H. Greenberg, PE
KLH Engineers, Inc.
5173 Campbells Run Road
Pittsburgh PA 15205

Application Received Date 04/27/2011

Description of Action Replacement of existing 6" PVC transmission main with 36" ductile iron, in order to meet the GWR 4-Log requirement for virus treatment.

MINOR AMENDMENT

Applications Received Under the Pennsylvania Safe Drinking Water Act

Northeast Region: Water Supply Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790

Application No. 6411501MA, Minor Amendment.

Applicant **Aqua Pennsylvania, Inc.**
Pine Beach System
1775 North Main Street
Honesdale, PA 18431

[Township or Borough] Paupack Township, **Wayne County**

Responsible Official Mr. Steve Clark,
Honesdale Division Mgr.
570-647-0358

Type of Facility Public Water Supply

Consulting Engineer ENTECH Engineers
Mr. Douglas Berg, PE.
4 South 4th Street, Reading, PA.
19603

Application Received Date April 28, 2010

Description of Action This project provides for the construction of 54 LF of 24-inch ductile iron pipe to provide additional chlorination contact time to meet the requirements of the Ground Water Rule.

Application No. 3511505 MA, Minor Amendment.

Applicant **Aqua Pennsylvania, Inc.**
Jefferson Heights System
1775 North Main Street
Honesdale, PA. 18431

[Township or Borough] Jefferson Township, **Lackawanna County**

Responsible Official Mr. Steve Clark
Honesdale Division Manager
570-647-0358

Type of Facility Public Water Supply
 Consulting Engineer ENTECH Engineers
 Mr. Douglas Berg, PE.
 4 South 4th Street,
 Reading, PA. 19603

Application Received Date April 28, 2011

Description of Action This project provides for the construction of 36 LF of 12-in DI pipe to provide additional chlorine contact time to meet the requirements of the Ground Water Rule.

Application No. 3511504MA, Minor Amendment.

Applicant **Aqua Pennsylvania**
 Elmbrook System;
 1775 North Main Street
 Honesdale, PA. 18431

[Township or Borough] Barrett Township, **Lackawanna County**

Responsible Official Mr. Steve Clark
 Honesdale Division Manager
 570-647-0358

Type of Facility Public Water Supply
 Consulting Engineer ENTECH Engineers
 Mr. Douglas Berg, PE.
 4 South 4th Street
 Reading, PA. 19603

Application Received Date April 28, 2011

Description of Action This project provides for the construction of 37 LF of 18-inch DI pipe to provide additional chlorine contact time to meet the requirements of Ground Water Rule

Application No. 4011503MA

Applicant **Aqua Pennsylvania, Inc.**
 White Haven Borough
Luzerne County

[Township or Borough]

Responsible Official Patrick R. Burke, Regional Manager
 Northeast & Central Operations
 1 Aqua Way
 White Haven, PA 18661

Type of Facility Community Water System
 Consulting Engineer William A. LaDieu, PE
 CET Engineering Services
 1240 North Mountain Road
 Harrisburg, PA 17112

Application Received Date April 28, 2011

Description of Action Application for construction of a 36-in. diameter by 108 LF segment of ductile iron pipe to obtain additional chlorine contact time fore meeting Groundwater Rule requirements.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.907)

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) (35 P. S. §§ 6026.302—6026.305) require the Department to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. A person intending to use the background standard, Statewide health standard, the site-specific standard or intend to remediate a site as a special industrial area shall file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one or a combination of cleanup standards or receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a site-specific standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the following site, proposed for remediation to a site-specific standard or as a special industrial area, the municipality, within which the site is located, may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified as follows. During this comment period, the municipality may request that the person identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the environmental cleanup program manager in the Department regional office listed before the notice. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following Notices of Intent to Remediate:

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Carlisle Machine Shop, 230 South Spring Garden Street, Carlisle Borough, **Cumberland County**. EA Engineering, Science & Technology, Inc., One Marketway West, York, PA 17401, on behalf of Warren Anderson, 17 Donegal Drive, Carlisle, PA 17013, and Carlisle Machine Shop, 230 South Spring Garden Street, Carlisle, PA 17013, submitted a Notice of Intent to Remediate site soils contaminated with lead. The site will be remediated to the Non-Residential Statewide Health and Site Specific standards. Future use of the site is non-residential for commercial purposes.

Steel Way Properties II LP, 1295 Manheim Pike, Manheim Township, **Lancaster County**. GCI Environmental Services, 1250 East King Street, Lancaster, PA 17602-3236, on behalf of Steel Way Properties II, LP, 548 Steel Way, Lancaster, PA 17601, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with fuel oil and gasoline released from non-regulated underground storage tanks. The site will be remediated to a combination of Residential Statewide Health and Site Specific standards. Future use of the site will remain commercial.

Donald Zentner Property, 1202 Huffs Church Road, Hereford Township, **Berks County**. Center Point Tank Services, 536 East Benjamin Franklin Highway, on behalf of Donald Zentner 1204 Huffs Church Road, Barto, PA 19504, submitted a Notice of Intent to Remediate site soils contaminated with fuel oil released from underground non-regulated storage tanks. The site will be remediated to the Residential Statewide Health standard. Future use of the site is for residential use.

APPLICATION FOR RESIDUAL WASTE GENERAL PERMITS

Application for General Permit Received Under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and/or the Beneficial Use of Residual Waste Other Than Coal Ash.

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.

General Permit Application Number WMGR097, Beneficial Use General Permit, Permit Application. On February 28, 2011, an application for the beneficial use of residual waste was received in DEP's Central Office and was found to be administratively complete as of April 28, 2011. The facility is known as the E & E Metal Fab, located at 110 North 16th Street, Lebanon, PA 17046.

General Permit Number WMGR097 authorizes beneficial uses of as proposed in this project, including (i) low grade waste feedstocks such as municipal green wastes, forestry industry wastes, food processing wastes, agricultural wastes and biosolids wastes.

Persons interested in reviewing the general permit renewal application and/or providing comments are directed to Scott E. Walters, Chief, General Permits/Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, 717-787-7381. TDD users may contact the Department through the Pennsylvania Relay service, (800) 654-5984. Public comments

must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

REGISTRATION UNDER RESIDUAL WASTE GENERAL PERMITS

Application(s) for Registration Received Under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and/or the Beneficial Use of Residual Waste Other Than Coal Ash

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.

General Permit Application Number WMGR097R 017. Clean Earth, Inc., 334 South Warminster Road, Hatboro, PA 19040. The application is for a research and development project designed to demonstrate that drill cuttings and drilling mud generated during Marcellus Shale operations can be successfully processed and beneficial used as engineered fill at brownfield or Act 2 sites, as a construction material at other sites, and in construction of drill pads. The processing is limited to addition of a drying agent, such as Portland cement, cement kiln dust or sawdust to the drill cuttings or drilling mud. The proposed Clean Earth, Inc. processing facility is located at 212 Colvin Road in Williamsport, PA. The application for registration was deemed administratively complete by Central Office on May 9, 2011.

Comments concerning the application should be directed to Scott E. Walters, Chief, General Permits/Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, 717-787-7381. TDD users may contact the Department through the Pennsylvania Relay service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

AIR QUALITY

PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS NEW SOURCES AND MODIFICATIONS

The Department has developed an "integrated" plan approval, State Operating Permit and Title V Operating Permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

The Department received applications for Plan Approvals or Operating Permits from the following facilities.

Copies of these applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the regional office listed before the applications. Persons interested in reviewing the application files should contact the appropriate regional office to schedule appointments.

Persons wishing to receive a copy of a proposed Plan Approval or Operating Permit shall indicate interests to the Department regional office within 30 days of the date of this notice and shall file protests or comments on a proposed Plan Approval or Operating Permit within 30 days of the Department providing a copy of the proposed documents to persons or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that hearings be held concerning a proposed Plan Approval or Operating Permit. A comment or protest filed with the Department regional office shall include a concise statement of the objections to the issuance of the Plan Approval or Operating Permit and relevant facts which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office listed before the application. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Final Plan Approvals and Operating Permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121–143, the Federal Clean Air Act (42 U.S.C.A. §§ 7401–7671q) and regulations adopted under the Federal Clean Air Act.

PLAN APPROVALS

Plan Approval Applications Received under the Air Pollution Control Act (35 P. S. §§ 4001–4015) and 25 Pa. Code Chapter 127, Subchapter B that may have special public interest. These applications are in review and no decision on disposition has been reached.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401

Contact: Sachin Shankar, New Source Review Chief—Telephone: 484-250-5920

23-0009G: The Boeing Co.—Defense, Space & Security Rotorcraft Programs (PO Box 16858, Philadelphia, PA 19142) for installation of three (3) new boilers, each with a heat input capacity of 49.0 MMBtu/hr, to replace three (3) existing boilers (2 @ 86 MMBtu/hr and 1 @ 35.7 MMBtu/hr) at their Boeing facility in Ridley Township, **Delaware County**. This facility is a major facility. Each boiler will be capable of both natural gas and #2 fuel oil firing. Fuel oil usage is limited to periods of testing or natural gas curtailment not to exceed a combined total of 10% of the annual operating hours. Each new boiler's design will include a low NO_x burner (LNB) with flue gas recirculation (FGR) to minimize emissions of NO_x (nitrogen oxides). NO_x emissions shall be limited to 30 ppmv @ 3% O₂ when firing natural gas and 90 ppmv @ 3% O₂ when firing #2 fuel oil. The boilers are subject to the Maximum Achievable Control Technology (MACT) rule of 40 CFR Part 63 Subpart DDDDD (National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters) and the New Source Standards of Performance for Stationary Sources (NSPS) requirements of 40 CFR Part 60 Subpart Dc, Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units. The company shall comply with good air pollution control practices, monitoring and recordkeeping proce-

dures designed to keep the facility operating within all applicable air quality requirements.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790

Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507

66-328-002: Procter & Gamble Paper Products Co. (PO Box 32, Mehoopany, PA 18629-0032) for construction of a new gas turbine at their facility in Washington Township, **Wyoming County**.

13-302-025: Altadis USA (1000 Tresckow Road, McAdoo, PA 18237) for modification to their existing boilers to use natural gas as an alternate fuel at their facility in Banks Township, **Carbon County**.

40-302-173: White Haven Center (827 Oley Valley Road, White Haven, PA 18661-3403) for installation of a new coal fired boiler at their facility in Foster Township, **Luzerne County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481

Contact: Edward Orris, New Source Review Chief—Telephone: 814-332-6636

10-370A: Keystone Midstream Services, LLC—KMS #3 Gas Processing Plant (11400 Westmoor Circle, Suite 325, Westminster, CO 80021) for construction of a natural gas processing facility in Lancaster Township, **Butler County**.

10-371A: Keystone Midstream Services, LLC—KMS #4 Gas Processing Plant (11400 Westmoor Circle, Suite 325, Westminster, CO 80021) for construction of a natural gas processing facility in Forward Township, **Butler County**.

10-372A: Keystone Midstream Services, LLC—KMS #5 Gas Processing Plant (11400 Westmoor Circle, Suite 325, Westminster, CO 80021) for construction of a natural gas processing facility in Lancaster Township, **Butler County**.

10-373A: Keystone Midstream Services, LLC—KMS #6 Gas Processing Plant (11400 Westmoor Circle, Suite 325, Westminster, CO 80021) for construction of a natural gas processing facility in Jackson Township, **Butler County**.

10-374A: Three Rivers Aggregates, LLC—Black's Run Plant (225 North Shore Drive, Pittsburgh, PA 15212) for the relocation of an existing sand and gravel plant to 144 Brandon Road, Slippery Rock, PA. The plant will be capable of producing 450 tons per hour and will consist of various crushers, screens, conveyors and stackers. This facility is located in Worth Township, **Butler County**.

16-124B: Peoples Natural Gas Co., LLC (1201 Pitt Street, Pittsburgh, PA 15221-2029) for replacement of a compressor engine at their Truittsburg Compressor Station in Fairmont City, **Clarion County**.

Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110

Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 717-949-7935

36-05152A: Kellogg's USA, Inc. (2050 State Road, Lancaster, PA 17604) for use of alcohol-based sanitizers in processing and packing areas at the Kellogg's USA Inc. facility in East Hempfield Township, **Lancaster County**.

In accordance with 25 Pa. Code §§ 127.44(a) and 127.45(a), the Department of Environmental Protection (DEP) has received and intends to issue a Plan Approval to the abovementioned company for the abovementioned project. This plan approval may be incorporated into the company's facility-wide permit via an administrative amendment at a later date.

Plan Approval No. 36-05152A is for authorizing the use of alcohol-based sanitizers and cleaning chemicals in specific processing and packing areas in the plant. The company shall be subject to and comply with the relevant provisions of the PA Code including the chapters 123, 127, and 129. The Plan Approval and Operating permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements. The expected actual air emissions from the proposed project are 13 tons of VOC.

Copies of the application, DEP's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110.

A person may oppose the proposed plan approval, or may provide the Department with additional information to consider in its review, by filing a written protest with the Department at the address listed above. Each written comment must contain the following:

Name, address and telephone number of the person submitting the comments.

Identification of the proposed permit by the permit number listed above.

A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A 30-day comment period, from the date of publication of this notice in the PA Bulletin, will exist for the submission of comments or protests.

Thomas Hanlon may be contacted at 717-705-4862, or at PA DEP Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, for additional information or for the submission of comments or protests. Plan approvals issues to sources identified in 25 Pa. Code Section 127.44(b)(1)—(4) or plan approvals issued to sources with limitations on the potential to emit may become part of the SIP, and will be submitted to EPA for review and approval.

22-05041A: The Hershey Co. (1033 Old West Chocolate Avenue, Hershey, PA 17033) for construction of two (2) almond roasters at the West Plant in Derry Township, **Dauphin County**.

In accordance with 25 Pa. Code §§ 127.44(a) and 127.45(a), the Department of Environmental Protection (DEP) has received and intends to issue a Plan Approval to the abovementioned company for the abovementioned project. This plan approval may be incorporated into the company's facility-wide permit via an administrative amendment at a later date.

Plan Approval 22-05041A authorizes the construction of two (2) almond roasting processes. Particulate emissions from the processes will be controlled by mist eliminators with HEPA filtration. The Plan Approval and Operating permit will contain emission limits, along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with all the applicable air quality requirements. The potential-to-emit Particulate Matter (PM₁₀) from the proposed roasting operations is expected to be less than 1.0 ton per year.

Copies of the application, DEP's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at the Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA 17110. A person may oppose the proposed plan approval, or may provide the Department with additional information to consider in its review, by filing a written protest with the Department at the address listed above. Each written comment must contain the following:

- Name, address and telephone number of the person submitting the comments.

- Identification of the proposed permit by the permit number listed above.

- A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A 30-day comment period, from the date of publication of this notice in the PA Bulletin, will exist for the submission of comments or protests.

Thomas J. Hanlon, P.E., Chief, East Permitting Section Chief may be contacted at (717) 705-4862, or at PA DEP Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, for additional information or for the submission of comments or protests.

Plan approvals issues to sources identified in 25 Pa. Code Section 127.44(b)(1)—(4) or plan approvals issued to sources with limitations on the potential to emit may become part of the SIP, and will be submitted to EPA for review and approval.

36-05046: Columbia Gas Transmission Corp.—Marietta Compressor Station (1700 MacCorkle Avenue SE, PO Box 1273, Charleston, WV 25325-1273) for correcting the NOX emission limit (from 70 ppmvd to 150 ppmvd at 15 percent oxygen) of the existing turbines to better reflect best available technology (BAT). No other changes to the permit will be made. The facility is located in East Donegal Township, **Lancaster County**. Emissions as a result of the change are not expected to increase.

Among other items, the turbines are still subject to 40 CFR 60, Subpart GG. The plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date.

Copies of the application, DEP's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at the PA DEP Southcentral Regional Office, at 909 Elmerton Avenue, Harrisburg, PA 17110.

A person may oppose the proposed plan approval, or may provide the Department with additional information to consider in its review, or may request a public hearing, by filing a written protest with the Department at the address listed above. Each written comment must contain the following:

- Name, address and telephone number of the person submitting the comments.
- Identification of the proposed permit by the permit number listed above.
- A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A 30-day comment period, from the date of publication of this notice in the *PA Bulletin*, will exist for the submission of comments or protests.

Tom Hanlon, Chief, East Permitting Section, may be contacted at 717-705-4862, or at PA DEP Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, for additional information or for the submission of comments or protests.

28-05012A: Volvo Road Machinery, Inc. (312 Volvo Way, Shippensburg, PA 17257-9209) for the construction of three (3) paint lines consisting of five (5) spray paint booths with associated natural gas-fired processes, a shotblast booth, and a natural gas-fired emergency generator at their facility in Shippensburg Borough, **Franklin County**.

In accordance with 25 Pa. Code §§ 127.44(a) and 127.45(a), the Department of Environmental Protection (DEP) has received an application and intends to issue a Plan Approval to the abovementioned company for the abovementioned project. This plan approval may be incorporated into the company's facility-wide permit via an administrative amendment at a later date.

Plan Approval No. 28-05012A authorizes the construction of the abovementioned sources. Particulate matter (PM) emissions from the five (5) spray paint booths and the shotblast booth will be controlled by dedicated dry panel filters and a cartridge collector, respectively, and will be subject to 40 CFR Part 63, Subpart XXXXXX—National Emission Standards for Hazardous Air Pollutants Area Source Standards for Nine Metal Fabrication and Finishing Source Categories. The emergency generator will be subject to 40 CFR Part 60, Subpart JJJJ—Standards of Performance for Stationary Spark Ignition Internal Combustion Engines. The Plan Approval and Operating Permit will contain emission restrictions, work practice standards, and testing, monitoring, record keeping, and reporting requirements to ensure the plant complies with the applicable air quality requirements. The five (5) proposed spray paint booths will replace five (5) existing/former spray paint booths. As a result, 24.15 TPY of VOC emission reduction credits (ERCs) will be generated for internal netting purposes for this project. Also as a result of this project, VOC emissions from the affected emission units (degreasers, Pangborn drum cell, and cleanup/miscellaneous solvents) will increase by 6.81 TPY. Potential VOC emissions from all of the proposed sources will be 56.49 TPY, which will result in a net VOC emissions increase of 39.15 TPY after taking into account the VOC ERCs and affected emission units' VOC emissions increase. The other potential air emissions from the proposed project are 23.8 TPY CO, 11.6 TPY NO_x, 2.0 TPY PM₁₀, 0.4 TPY Hexane, 0.1 TPY Chromium, 0.5 TPY aggregate HAPs, and 0.1 TPY SO_x.

Copies of the application, DEP's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110.

A person may oppose the proposed plan approval, or may provide the Department with additional information

to consider in its review, by filing a written protest with the Department at the address listed above. Each written comment must contain the following:

- Name, address and telephone number of the person submitting the comments.
- Identification of the proposed permit by the permit number listed above.
- A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A 30-day comment period, from the date of publication of this notice in the *PA Bulletin*, will exist for the submission of comments or protests.

Daniel C. Husted, PE may be contacted at 717-705-4863, or at PA DEP Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, for additional information or for the submission of comments or protests.

Plan approvals issues to sources identified in 25 Pa. Code Section 127.44(b)(1)–(4) or plan approvals issued to sources with limitations on the potential to emit may become part of the SIP, and will be submitted to EPA for review and approval.

*Department of Public Health, Air Management Services:
321 University Avenue, Philadelphia, PA 19104*

Contact: Edward Wiener, Chief—Telephone: 215-685-9426

AMS 11070: SPD Electrical System (13500 Roosevelt Boulevard, Philadelphia, PA 19116) for installing one 810,000 BTU/hr, four 648,000 BTU/hr, one 425,250 BTU/hr, one 419,650 BTU/hr, seven 292,000 BTU/hr, and one 291,000 BTU/hr natural gas fired Roof Mounted HVAC units. There will be a potential emission increase of 2.8 tons of Nitrogen Oxides (NO_x) per year for the facility. The plan approval will contain operating, monitoring and recordkeeping requirements to ensure operation within all applicable requirements.

OPERATING PERMITS

Intent to Issue Title V Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401

Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920

23-00023: United Parcel Service (1 Hog Island Road, Philadelphia, PA 19153) for operation of a Distribution and Transportation Facility which contains the following air emission sources; 38 space heaters, 4 emergency generators, Gasoline & Diesel Storage Dispensing, and Jet A Fuel Dispensing in Tinicum Township, **Delaware County**. This issuance is for a Title V Operating Permit renewal. The facility is required to have a Title V Operating Permit under 40 CFR part 60, § 62.14480. This renewal of the Title V Operating Permit does not authorize any increase in air emissions of regulated pollutants above previously approved levels. The Title V Operating Permit contains all applicable requirements including monitoring, recordkeeping and reporting.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745

Contact: Barbara Hatch, Facilities Permitting Chief—Telephone: 412-442-4174

26-00402: Veolia ES Chestnut Valley Landfill, Inc. (PO Box 266, 1184 McClelland Town, McClelland Town, PA 15458) for a proposed operating permit for their municipal solid waste landfill in German Township, **Fayette County**. Landfill's design capacity makes it subject to the operating permit requirements of Title V of the Federal Clean Air Act, and PA Code Title 25 Chapter 127, Subchapter G. Proposed Operating Permit contains applicable emission limits, as well as testing, monitoring, recordkeeping and reporting requirements.

Intent to Issue Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790

Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507

54-00076: Pottsville Materials, LLC (P. O. Box 1467, Skippack, PA 19474) for an operating permit for a stone crushing plant in New Castle Township, **Schuylkill County**. The facility's main sources include crushing, screening and conveying equipment. The facility has the potential to emit particulate matter (PM), volatile organic compounds (VOCs), hazardous air pollutants (HAPs), nitrogen oxides (NOx), sulfur oxides (SOx) and carbon monoxide (CO) below the major emission thresholds. The proposed operating permit contains all applicable requirements including Federal and State regulations. In addition, monitoring, recordkeeping and reporting conditions regarding compliance with all applicable requirements are also included.

35-00052: Haines and Kibblehouse, Inc. (P. O. Box 196, 2052 Lucon Road, Harrisburg, PA 19474) for a renewal operating permit for a hot mix asphalt plant in Dunmore Borough, **Lackawanna County**. The facility has potential major emissions of Sulfur Oxides (SOx), Nitrogen Oxides (NOx) and Carbon Monoxide (CO). The facility shall operate as a Synthetic Minor facility by limiting production throughput of asphalt to 400,000 tons per year. The proposed operating permit contains all applicable requirements including Federal and State regulations. In addition, monitoring, record keeping and reporting conditions regarding compliance with all applicable requirements are also included.

40-00103: Harman Funeral Home & Crematory (P. O. Box 429, Drums, PA 18222-0429) a renewal operating permit for a crematory located in Butler Township, **Luzerne County**. The proposed operating permit contains all applicable requirements including Federal and State regulations. In addition, monitoring, recordkeeping and reporting conditions regarding compliance with all applicable requirements are also included.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110

Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 717-949-7935

36-03161: Compass Quarries, Inc. (47 McIlvaine Road, Paradise, PA 17562) for the stone crushing facility in Paradise Township, **Lancaster County**.

In accordance with 25 Pa. Code §§ 127.424 and 127.425 the Department of Environmental Protection (DEP) has received an application and intends to issue an Air Quality Operating Permit for the abovementioned facility.

The subject facility has actual emissions of 22.4 tpy of particulate matter. The Operating Permit will include emission limits and work practice standards along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations. Among other items, the conditions include provisions derived from 40 CFR 60 Subpart OOO - Standards of Performance for Nonmetallic Mineral Processing Plants.

Copies of the application, DEP's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at the PA DEP Southcentral Regional Office, at 909 Elmerton Avenue, Harrisburg, PA 17110.

A person may oppose the proposed plan approval, or may provide the Department with additional information to consider in its review, or may request a public hearing, by filing a written protest with the Department at the address listed above. Each written comment must contain the following:

- Name, address and telephone number of the person submitting the comments.
- Identification of the proposed permit by the permit number listed above.
- A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A 30-day comment period, from the date of publication of this notice in the *PA Bulletin*, will exist for the submission of comments or protests.

Thomas Hanlon, Chief, East Permitting Section may be contacted at 717-705-4862, or at PA DEP Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, for additional information or for the submission of comments or protests.

67-03028: Dentsply International, Inc. (PO Box 872, Shiremanstown, PA 17011) for their dental appliance manufacturing facility in the City of York, **York County**.

In accordance with 25 Pa. Code §§ 127.424 and 127.425 the Department of Environmental Protection (DEP) has received an application and intends to issue an Air Quality Operating Permit renewal for the above-mentioned facility.

The subject facility has potential particulate matter emissions of less than 5 tons per year. The Operating Permit will include emission limits and work practice standards along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations. Copies of the renewal application, DEP's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at the PA DEP Southcentral Regional Office, at 909 Elmerton Avenue, Harrisburg, PA 17110.

A person may oppose the proposed plan approval, or may provide the Department with additional information to consider in its review, or may request a public hearing, by filing a written protest with the Department at the address listed above. Each written comment must contain the following:

- Name, address and telephone number of the person submitting the comments.
- Identification of the proposed permit by the permit number listed above.

- A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A 30-day comment period, from the date of publication of this notice in the *PA Bulletin*, will exist for the submission of comments or protests.

Daniel C. Husted, Chief, West Permitting Section may be contacted at 717-705-4863, or at PA DEP Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, for additional information or for the submission of comments or protests.

67-03037: Hard Chrome Specialties, Inc. (41 Leigh Drive, York, PA 17402) for their chromium electroplating facility in Manchester Township, **York County**.

In accordance with 25 Pa. Code §§ 127.424 and 127.425 the Department of Environmental Protection (DEP) has received an application and intends to issue an Air Quality Operating Permit renewal for the above-mentioned facility.

The subject facility has potential chromium emissions of less than 1 ton per year. The Operating Permit will include emission limits and work practice standards along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations. Plating operations are subject to 40 CFR Part 63, Subpart N - National Emission Standards for Hazardous Air Pollutants for Source Categories. Copies of the application, DEP's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at the PA DEP Southcentral Regional Office, at 909 Elmerton Avenue, Harrisburg, PA 17110.

A person may oppose the proposed plan approval, or may provide the Department with additional information to consider in its review, or may request a public hearing, by filing a written protest with the Department at the address listed above. Each written comment must contain the following:

- Name, address and telephone number of the person submitting the comments.
- Identification of the proposed permit by the permit number listed above.
- A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A 30-day comment period, from the date of publication of this notice in the *PA Bulletin*, will exist for the submission of comments or protests.

Daniel C. Husted, Chief, West Permitting Section may be contacted at 717-705-4863, or at PA DEP Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, for additional information or for the submission of comments or protests.

06-03075: VF Factory Outlet Inc. (801 Hill Avenue, Wyomissing, PA 19610) for the boiler plant in Wyomissing Borough, **Berks County**.

In accordance with 25 Pa. Code §§ 127.424 and 127.425 the Department of Environmental Protection (DEP) has received an application and intends to issue an Air Quality Operating Permit for the abovementioned facility.

The subject facility has actual emissions of 1.3 tpy of NO_x and 1.1 tpy of CO. The Operating Permit will include emission limits and work practice standards along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations. Among other items, the conditions

include provisions derived from 40 CFR 60 Subpart Dc, Standards of Performance for New Stationary Sources.

Copies of the application, DEP's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at the PA DEP Southcentral Regional Office, at 909 Elmerton Avenue, Harrisburg, PA 17110.

A person may oppose the proposed plan approval, or may provide the Department with additional information to consider in its review, or may request a public hearing, by filing a written protest with the Department at the address listed above. Each written comment must contain the following:

- Name, address and telephone number of the person submitting the comments.
- Identification of the proposed permit by the permit number listed above.
- A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A 30-day comment period, from the date of publication of this notice in the *PA Bulletin*, will exist for the submission of comments or protests.

Thomas Hanlon, Chief, East Permitting Section may be contacted at 717-705-4862, or at PA DEP Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, for additional information or for the submission of comments or protests.

67-03128: Direct Brands Inc. (501 Ridge Avenue, Hanover, PA 17331) for operation of their book distribution facility in Penn Township, **York County**.

In accordance with 25 Pa. Code §§ 127.424 and 127.425 the Department of Environmental Protection (DEP) has received an application and intends to issue an Air Quality Operating Permit renewal for the above-mentioned facility.

The facility has the following potential annual emissions: 75 tons SO_x, 26 tons NO_x, 7 tons PM₁₀ and 2 tons CO. The Operating Permit will include emission limits and work practice standards along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations.

Copies of the application, DEP's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at the PA DEP Southcentral Regional Office, at 909 Elmerton Avenue, Harrisburg, PA 17110.

A person may oppose the proposed plan approval, or may provide the Department with additional information to consider in its review, or may request a public hearing, by filing a written protest with the Department at the address listed above. Each written comment must contain the following:

- Name, address and telephone number of the person submitting the comments.
- Identification of the proposed permit by the permit number listed above.
- A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A 30-day comment period, from the date of publication of this notice in the *PA Bulletin*, will exist for the submission of comments or protests.

Daniel C. Husted, Chief, West Permitting Section may be contacted at 717-705-4863, or at PA DEP Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, for additional information or for the submission of comments or protests.

36-05011: Lancaster Terminal Corporation (P. O. Box 2621, Harrisburg, PA 17105) for the bulk liquid petroleum terminal in Manheim Township, **Lancaster County**.

In accordance with 25 Pa. Code §§ 127.424 and 127.425 the Department of Environmental Protection (DEP) has received an application and intends to issue an Air Quality Operating Permit for the abovementioned facility.

The subject facility has actual emissions of 8.2 tpy of VOC. The Operating Permit will include emission limits and work practice standards along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations. Among other items, the conditions include provisions derived from 40 CFR 63 Subpart BBBBBB—National Emission Standards for Hazardous Air Products for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities.

Copies of the application, DEP's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at the PA DEP Southcentral Regional Office, at 909 Elmerton Avenue, Harrisburg, PA 17110.

A person may oppose the proposed plan approval, or may provide the Department with additional information to consider in its review, or may request a public hearing, by filing a written protest with the Department at the address listed above. Each written comment must contain the following:

- Name, address and telephone number of the person submitting the comments.
- Identification of the proposed permit by the permit number listed above.
- A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A 30-day comment period, from the date of publication of this notice in the *PA Bulletin*, will exist for the submission of comments or protests.

Thomas Hanlon, Chief, East Permitting Section may be contacted at 717-705-4862, or at PA DEP Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, for additional information or for the submission of comments or protests.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745

Contact: Barbara Hatch, Facilities Permitting Chief—Telephone: 412-442-4174

63-00636: McGrew Welding & Fabricating Inc. (PO 87, Industrial Park, Donora, PA 15033) for their welding operations Donora Boro, **Washington County**. This is a state only operating permit renewal submittal.

63-00633: The Woods Quality Cabinetry Company (42 84 Drive, Eighty Four, PA 15330) for their wood kitchen cabinet and counter top manufacturing facility located in South Strabane Township, **Washington County**. This is a state only operating permit renewal submittal.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481

Contact: Edward Orris, New Source Review Chief—Telephone: 814-332-6131

37-00299: IMS Div of Tube City (1155 Business Center Drive, Horsham, PA 19044) to issue a renewal State Only Operating Permit for the Tube City IMS facility located in Taylor Township, **Lawrence County**. The facility is a Natural Minor. The primary sources at the facility are slag processing and storage piles. The renewal permit contains emission restrictions, recordkeeping, and work practice requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act.

43-00336: PA Rail Car (584 Fairground Road, PO Box 129, Mercer, PA 16137-0129) for renewal of the State Only Operating Permit for refurbishing damaged railcar doors located in West Middlesex Borough, **Mercer County**. The sources at the facility include a coating line, a remote reservoir parts cleaner, and space heaters / furnace for drying coatings and building comfort. The facility has a VOC limit of 10 TPY based on a 12-month total as established in plan approval 43-336A. The facility is a natural minor. The renewal permit contains emission restrictions, recordkeeping, work practice, and additional requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104

Contact: Edward Wiener, Chief—Telephone: 215-685-9426

S11-004: The Wistar Institute. (3601 Spruce Street, Philadelphia, PA 19104) for operation of a biomedical research facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission source includes three 448 Hp boilers and five emergency generators.

The operating permit will be issued under the Pennsylvania Code Title 25, Philadelphia Code Title 3 and Air Management Regulation XIII. Permit copies and other supporting information are available for public inspection at AMS, 321 University Avenue, Philadelphia, PA 19104. For further information, contact Edward Wiener at (215) 685-9426.

Persons wishing to file protest or comments on the above operating permit must submit the protest or comments within 30 days from the date of this notice. Any protests or comments filed with AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Based upon the information received during the public comment period, AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least thirty days before the hearing.

PLAN APPROVALS

Receipt of Plan Approval Applications and Intent to Issue Plan Approvals, and Intent to Issue Amended Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter B And Subchapter F. These actions may include the administrative amendments of an associated operating permit.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790

Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507

58-399-015 Appalachia Midstream Services LLC (6100 N. Western Avenue, PO Box 54382, Oklahoma City, OK 73154-1382) for their facility located in Auburn Twp., **Susquehanna County**.

Notice is hereby given in accordance with 25 Pa. Code §§ 127.44(a) and 127.45(a), that the Department of Environmental Protection (DEP) has received and intends to issue a Plan Approval to **Appalachia Midstream Services LLC** (6100 N. Western Avenue, PO Box 54382, Oklahoma City, OK 73154-1382) for their facility located in Auburn Twp., **Susquehanna County**. This Plan Approval No. 58-399-015 will be incorporated into a Synthetic Minor Permit through an administrative amendment at a later date.

Plan Approval No. 58-399-015 is for the construction of a natural gas compressor station at the Auburn Compressor Station. The VOC emissions from the facility will not equal or exceed 50 TPY, based on a 12-month rolling sum. The NO_x emissions from the facility will not equal or exceed 100 TPY, based on a 12-month rolling sum. Total PM, SO_x, and CO emissions from the facility will not equal or exceed 100 TPY, based on a 12-month rolling sum. The HAPs from the facility must never equal or exceed 10 TPY of any single HAP and must never equal or exceed 25 TPY of all aggregated HAPs, based on a 12-month rolling sum. The Plan approval and Operating Permit will include testing, monitoring, record keeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements.

The facility is subject to MACT 40 CFR Part 63 Subparts ZZZZ and HH, NSPS Subpart JJJJ and 25 PA Code 127.12 (a) (5) Best Available Technology (BAT) requirements. The visible emission opacity shall not be equal to or greater than 20 % at any time. The company shall be subject to and comply with 25 PA Code 123.31 for malodorous emissions.

Emissions from the engines will meet MACT Subpart ZZZZ, MACT Subpart HH, BAT & NSPS Subpart JJJJ requirements. The Plan Approval and Operating permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

Copies of the application, DEP's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Any person(s) wishing to provide DEP with additional information, which they believe should be considered prior to the issuance of this permit, may submit the information to the address shown in the preceding paragraph. Each written comment must contain the following:

Name, address and telephone number of the person submitting the comments.

Identification of the proposed permit No.: 58-399-015.

A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department of Environmental Protection, in its discretion, decides that such a hearing is warranted based on the comments received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania*

Bulletin or by telephone, where DEP determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Ray Kempa, Chief, New Source Review Section, Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915, Phone # 570-826-2511 within 30 days after publication date.

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P.S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P.S. §§ 3301—3326); The Clean Streams Law (35 P.S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P.S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P.S. §§ 1406.1—1406.20a). Mining activity permits issued in response to such applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P.S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department. A copy of the application is available for inspection at the district mining office indicated before each application. Notices of requests for 401 Water Quality Certifications are included in individual application notices, as noted.

Written comments or objections, or requests for an informal conference, or a public hearing, as applicable, on a mining permit application may be submitted by any person or any officer or head of any Federal, state or local government agency or authority to the Department at the address of the district mining office indicated before each application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

Written comments or objections regarding a mining permit application should contain the name, address and telephone number of persons submitting comments or objections, application number and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based.

A request for an informal conference or a public hearing, as applicable, on a mining permit application, as provided by 25 Pa. Code § 77.123 or § 86.34, must contain the name, address and telephone number of the requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor desires to have the conference conducted in the locality of the proposed mining activities.

When an NPDES number is listed, the mining activity permit application was accompanied by an application for an individual NPDES permit. A separate notice will be provided after the draft NPDES permit is prepared.

Coal Applications Received

Effluent Limits—The following range of effluent limits will apply to NPDES permits issued in conjunction with the associated coal mining activity permit and, in some cases, noncoal mining permits:

Table 1

Parameter	30-Day Average	Daily Maximum	Instantaneous Maximum
Iron (total)	1.5 to 3.0 mg/l	3.0 to 6.0 mg/l	3.5 to 7.0 mg/l
Manganese (total)	1.0 to 2.0 mg/l	2.0 to 4.0 mg/l	2.5 to 5.0 mg/l
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Aluminum (Total)	0.75 to 2.0 mg/l	1.5 to 4.0 mg/l	2.0 to 5.0 mg/l
pH ¹		greater than 6.0; less than 9.0	
Alkalinity greater than acidity ¹			

¹The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities; and mined areas backfilled and revegetated; and drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

California District Office: 25 Technology Drive, Coal Center, PA 15423, 724-769-1100

17743702 and NPDES No. PA0215490, Rosebud Mining Company, (301 Market Street, Kittanning, PA 16201), to renew the permit for the Lady Jane Plant in Huston Township, **Clearfield County** and related NPDES permit. No additional discharges. Application received: November 2, 2009.

Noncoal Applications Received

Effluent Limits—The following effluent limits will apply to NPDES permits issued in conjunction with a noncoal mining permit:

Table 2

Parameter	30-Day Average	Daily Maximum	Instantaneous Maximum
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Alkalinity exceeding acidity*			
pH*		greater than 6.0; less than 9.0	

* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925-5500

65110401 and NPDES Permit No. PA0252077. Ligonier Stone & Lime Co., Inc. (117 Marcia Street, Latrobe, PA 15650-4300). Application for commencement, operation and reclamation of large noncoal surface mine, located in Derry Township, **Westmoreland County**, affecting 101.4 acres. Receiving streams: Stony Run, classified for the following use: CWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received: April 21, 2011.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118

19110301 and NPDES Permit No. PA0225002. Hanson Aggregates of PA, LLC, (7600 Imperial Way, Allentown, PA 18195), commencement, operation and restoration of a quarry operation in Madison and Hemlock Townships, **Columbia County** affecting 281.9 acres (replacing SMP No. 6374SM1), receiving stream: unnamed tributary to Little Fishing Creek, classified for the following use: cold water fishes. Application received: April 29, 2011.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department. Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the Commonwealth to certify that the involved projects will not violate the sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA, the issuance of a Dam Permit or Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment shall submit comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the office noted before an application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Each individual will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on working days at the office noted before the application.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Applications Received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and Requests for Certification under section 401(a) of the FWPCA.

WATER OBSTRUCTIONS AND ENCROACHMENTS

Southcentral Region: Watershed Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Telephone: 717-705-4707.

E28-365: Antrim Business Park, LP, Antrim Commons Business Park Anchor Site, Ten East Baltimore Street, Suite 1600, Baltimore, Maryland 21202, in Antrim Township, **Franklin County**, ACOE Baltimore District

To fill 0.07 acre of PEM wetland in the Conococheague Creek (WWF-MF) watershed. The project is located west of Exit 3 on Interstate 81 and Molly Pitcher Highway (U.S. Route 11 (Greencastle, PA Quadrangle, N:1.3 inches, W: 15.5 inches; Latitude: 39°45'32", Longitude: -77°44'16") in Antrim Township, Franklin County. The purpose of the project is to construct a 1,400,000 square foot industrial/distribution facility. The permittee is required to provide a minimum of 0.07 acres of replacement PEM wetlands.

E67-891: GWM Properties of Pennsylvania Co., 2191 Seven Valleys Road, Seven Valleys, PA 17360-8612, Seven Valleys Borough and North Codorus Township, **York County**, ACOE Baltimore District

The applicant proposes to place and maintain fill in 0.93-acres of Palustrine Emergent (PEM) wetlands for the purpose of expanding an existing commercial facility. The project is located southeast of the intersection of Main St (SR 0214) and Seven Valleys Road (SR0616), on the western edge of Seven Valleys Borough. (Seven Valleys, PA Quadrangle N: 3.6 inches, W: 19.1 inches; Latitude: 39°51'7.5", Longitude: 77°46'31.1"), in Seven Valleys Borough and North Codorus Township, York County. To compensate for wetland impacts, the permittee shall provide a minimum of 1.53-acres of replacement wetlands onsite.

Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E02-1561. Pennsylvania Turnpike Commission, PO Box 67676, Harrisburg, PA 17106-7676. To construct and

maintain a 300 L.F. stream relocation including 72 L.F. of 24 -inch and 36-inch diameter culvert extensions and relocation of the associated outfall of a stormwater drainage system; and fill and maintain 0.04 acres of PSS wetland in an unnamed tributary to Deer Creek (CWF; a drainage area of approximately 38 acres) for the purpose of replacing and improving the SR910 overpass and approach roads to the Pennsylvania Turnpike (I-79). The permittee shall provide for wetland replacement by making monetary contribution of \$500.00 to the National Fish & Wildlife Foundation, Pennsylvania Wetland Replacement Project ID Number 95-096. This project is located approximately 2 mi northwest of Harmar, PA (New Kensington West Quadrangle N: 12.8 inches, W: 16.0 inches; Latitude: 40° 34' 28", Longitude: 79° 51' 51").

Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481

E20-584, Envision Linesville, Incorporated, PO Box 182, Linesville, PA 16424-0182. Pymatuning State Park Seabee Trail, in Conneaut and Pine Townships, **Crawford County**, ACOE Pittsburgh District (Linesville, PA Quadrangle N: 41°, 39', 43"; W: 80°, 27', 48").

To conduct the following activities associated with the construction of the Seabee Trail, a multi-use recreational trail connecting the Lynn Summers Little League Complex along SR 6 west of Linesville with the Pymatuning State Park access along Gilliland Road:

1. Place and maintain fill in a total of 0.4 acre of wetland at two locations for construction of the trail
2. Install and maintain a 45-inch wide by 29-inch high elliptical pipe in a tributary to Pymatuning Reservoir having a drainage area of 115.1 acres at trail station 14+89.
3. Install and maintain a 45-inch wide by 29-inch high elliptical pipe in a tributary to Pymatuning Reservoir having a drainage area of 87.3 acres at trail station 17+75.
4. Construct and maintain a timber pedestrian bridge having a clear span of 18 feet and an underclearance of about 5 feet across a tributary to Pymatuning Reservoir having a drainage area of 306.9 acres at trail station 33+64.
5. Temporarily impact a total of 0.53 acre of wetland associated with construction of the 0.4 acre wetland replacement area at the Pymatuning State Park Linesville Beach parking lot.

Project proposes creation of 2.58 acres of replacement wetland near the Linesville Beach area within Pymatuning State Park.

ACTIONS

THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT FINAL ACTIONS TAKEN FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

The Department has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and NOIs for coverage under General Permits. This notice of final action is provided in accordance with 25 Pa. Code Chapters 91 and 92a and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.101) and the Federal Clean Water Act (33 U.S.C.A. §§ 1251—1376).

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or Amendment
Section III	WQM	Industrial, Sewage or Animal Wastes; Discharges to Groundwater
Section IV	NPDES	MS4 Individual Permit
Section V	NPDES	MS4 Permit Waiver
Section VI	NPDES	Individual Permit Stormwater Construction
Section VII	NPDES	NOI for Coverage under NPDES General Permits

Sections I—VI contain actions regarding industrial, animal or sewage wastes discharges, discharges to groundwater, and discharges associated with MS4, stormwater associated with construction activities and CAFOs. Section VII contains notices for parties who have submitted NOIs for Coverage under General NPDES Permits. The approval for coverage under these General NPDES Permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions in each General Permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions in the respective permit. The permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law). The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, PO Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should contact a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

I. NPDES Renewal Permit Actions

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0104272 (Sewage)	PA Fish & Boat Commission North East Access and Marina 11950 E. Lake Road Erie, PA 16428	Erie County North East Township	Unnamed tributary to Lake Erie 15	Y
PA0101826 (Sewage)	Thomas R. Barnett d/b/a Woodlands Meadows MHP 102 Double Road Renfrew, PA 16053	Butler County Connoquenessing Township	Unnamed tributary to Little Connoquenessing Creek 20-C	Y

II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone: 717-705-4707.

NPDES Permit No. PA0260550, CAFO, **Galen Nolt**, 222 Little Britain Church Road, Peach Bottom, PA 17563.

This proposed facility is located in Fulton Township, **Lancaster County**.

Description of Size and Scope of Proposed Operation/Activity: Authorization to operate a 522.8-AEU dairy, poultry, and swine operation known as Westview Farm in Watershed 7-K.

III. WQM Industrial Waste and Sewerage Actions under The Clean Streams Law

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone: 717-705-4707.

WQM Permit No. 3687420 Amendment 10-1, Sewage, **Borough of Adamstown**, 3000 North Reading Road, PO Box 546, Adamstown, PA 19501-0546.

This proposed facility is located in East Cocalico Township, **Lancaster County**.

Description of Proposed Action/Activity: This amendment approves the re-rating of sewerage facilities consisting of the use of the existing activated sludge tank as aerobic sludge treatment and the use of the two existing oxidation ditches for biological treatments.

WQM Permit No. 0791402 Amendment 10-1, Sewage, **Hollidaysburg Sewer Authority**, 401 Blair Street, Hollidaysburg, PA 17406.

This proposed facility is located in Frankstown Township, **Blair County**.

Description of Proposed Action/Activity: Permit approval for the construction / operation of sewerage facilities consisting of an upgrade to the existing treatment plant to meet the proposed nutrient limits for Total Nitrogen specified in Part I NPDES permit issued on September 27, 2010 and construct a new aerobic digester facilities along with sludge thickening and sludge dewatering systems.

WQM Permit No. 2894402 Amendment 11-1, Sewage, **Washington Township Municipal Authority**, 11102 Buchanan Trail East, Waynesboro, PA 17268.

This proposed facility is located in East Cocalico Township, **Lancaster County**.

Description of Proposed Action/Activity: Permit amendment approval for the modification of sewerage facilities consisting of the upgrade of the aerobic sludge digestion system aeration system, the addition of an alum feed system and the addition of a sodium bisulfite feed system.

WQM Permit No. WQG01291101, Sewage, **Jean V. Davis and James Skiles**, 1055 Celeste Drive, Shippensburg, PA 17257.

This proposed facility is located in Licking Creek Township, **Fulton County**.

Description of Proposed Action/Activity: Construction/Operation of a small flow sewage treatment system to serve their single family residence at 6424 Lincoln Highway, Harrisonville, PA 17228.

WQM Permit No. 3606201 Amendment 11-1, CAFO, **Rohrer Farms, LLC**, 762 West Lexington Road, Lititz, PA 17543.

This proposed facility is located in Penn and Warwick Townships, **Lancaster County**.

Description of Proposed Action/Activity: Amendment approval for the modification of permit requirements consisting of the removal of construction and operating Condition 8 of WQM Permit No. 3606201 requiring the sampling of monitoring wells.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745

WQM Permit No. 466S91-A2, Sewerage, **Garrett Borough**, 307 Municipal Road, Garrett, PA 15542

This existing facility is located in Garrett Borough, **Somerset County**

Description of Proposed Action/Activity: Permit amendment issuance for the construction and operation of new final clarifiers and chlorine contact tank.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481

WQM Permit No. 2009404, Sewage, **Amendment No. 1, Meadville Area Sewer Authority**, 1320 Park Avenue, Meadville, PA 16335.

This existing facility is located in City of Meadville, **Crawford County**.

Description of Proposed Action/Activity: Issuance of an Amendment Permit to replace the existing 10-inch force main by installing a new 14-inch C-905 PVC force main rated for 150 psi working pressure.

WQM Permit No. WQG018801, Sewage, **Daniel Jenks**, 1159 West 7th Street, Erie, PA 16502.

This proposed facility is located in Summit Township, **Erie County**.

Description of Proposed Action/Activity: Issuance of a new permit for a Single Residence Sewage Treatment Plant.

WQM Permit No. 368S037, Sewage, **Amendment No. 1, Lake View Country Club**, 8351 Route 89, North East, PA 16428.

This existing facility is located in North East Township, **Erie County**.

Description of Proposed Action/Activity: Issuance of an Amendment Permit for two (2) sludge holding tanks, installation of a table dechlorination system and replacement of the table chlorination unit.

IV. NPDES Stormwater Discharges from MS4 Permit Actions

V. NPDES Waiver Stormwater Discharges from MS4 Actions

VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions

Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water / Use</i>
PAI023909004(1)	Cedar-Trexler Plaza 2, LLC & Cedar-Trexler Plaza 3, LLC 3307 Trindle Road Camp Hill, PA 17011-5115	Lehigh Co.	Upper Macungie Twp. Lower Macungie Twp.	Iron Run (HQ-CWF, MF)
PAI024804027R	School House Associates, LLC 1030 West Germantown Pike PO Box 287 Fairview Village, PA 19409	Northampton Co.	Williams Twp.	Fry's Run (HQ-CWF, MF)

Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Beaver County Conservation District, 156 Cowpath Road, Aliquippa, PA 15001 (724-378-1701)

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water / Use</i>
PAI050411002	Beth Lavalley Beaver County Airport 15 Piper Street Beaver Falls, PA 15010	Beaver	Chippewa Township	UNT to North Fork Little Beaver Creek (HQ-CWF)

VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Small Flow Treatment Facilities
PAG-5	General Permit for Discharges From Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest, or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4) General Permit Type-PAG-02

Facility Location:

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
Boro of Fountain Hill Lehigh Co.	PAG02003910012	Travis McVickers DHD Ventures 300 E. John St., Su. 122 Matthews, NC 28105	UNT to Lehigh River (CWF, MF)	Lehigh Co. Conservation District 610-391-9583
Forkston and Windham Twps. Wyoming Co.	PAG02006611004	Forkston Twp. RR 2 Box 2914 Mehoopany PA 18629	UNT to Mehoopany Creek (CWF, MF)	Wyoming Co. Conservation District 570-836-2589

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
Tunkhannock Twp. Wyoming Co.	PAG02006611005	Wyoming Industrial Development Authority 1 Courthouse Sq. Tunkhannock PA 18657	Tunkhannock Creek (CWF, MF)	Wyoming Co. Conservation District 570-836-2589
Nicholson Township Fayette County	PAG2102611002	BAMR P. O. Box 8476 Harrisburg, PA 17105-8476	Jacobs Creek (WWF) to Monongahela River	BAMR P. O. Box 8476 Harrisburg, PA 17105-8476 717-783-1311
Spring Township Berks County	PAG02000611010	Penn State University P. O. Box 7009 Reading, PA 19610-6009	Tulpehocken Creek (CWF, MF)	Berks Co. Conservation Dist. 1238 Co. Welfare Rd, Ste 200 Leesport, PA 19533-9710 610.372.4657, Ext. 142
Caernarvon Township Berks County	PAG02000611014	Fisher, Neal E. The Hankin Group 707 Engleview Blvd. Exton, PA 19341	Trib of Conestoga River (WWF)	Berks Co. Conservation Dist. 1238 Co. Welfare Rd, Ste 200 Leesport, PA 19533-9710 610.372.4657, Ext. 142
Douglass Township Berks County	PAG02000611016	Turfgrass Disease Solutions, LLC 38 Bertolet Road Spring City, PA 19475	Ironstone Creek/Schuylkill (TSF, MF)	Berks Co. Conservation Dist. 1238 Co. Welfare Rd, Ste 200 Leesport, PA 19533-9710 610.372.4657, Ext. 142
Washington Township Berks County	PAG02000611021	Rotelle, Peter Rotose Partnership, L.P. 845 Niantic Road Barto, PA 19504	West Branch Perkiomen Creek (CWF)	Berks Co. Conservation Dist. 1238 Co. Welfare Rd, Ste 200 Leesport, PA 19533-9710 610.372.4657, Ext. 142
Muhlenberg Township Berks County	PAG02000611017	Love, Matthew Exide Technologies 3000 Montrose Avenue Reading, PA 19605	Bernhart Reservoir (WWF MF)	Berks Co. Conservation Dist. 1238 Co. Welfare Rd, Ste 200 Leesport, PA 19533-9710 610.372.4657, Ext. 142
Upper Tulpehocken Township Berks County	PAG02000611015	Yost, David A. 18 Fort Road Bernville, PA 19506	UNT to Little Northkill Creek (CWF/CWF)	Berks Co. Conservation Dist. 1238 Co. Welfare Rd, Ste 200 Leesport, PA 19533-9710 610.372.4657, Ext. 142
Cumru Township Berks County	PAG02000611004	Masano, Thomas F. Masano Corporation, c/o Masano Architects Grp 855 Berkshire Blvd., Suite 100 Wyomissing, PA 19610	UNT to Schuylkill River (WWF)	Berks Co. Conservation Dist. 1238 Co. Welfare Rd, Ste 200 Leesport, PA 19533-9710 610.372.4657, Ext. 142
Tilden Township Berks County	PAG02000611011	Depascale, Joseph Jerc Partner XV, LP 171 State Route 172 Suite 201 Asbury, NJ 08802	Schuylkill River (WWF)	Berks Co. Conservation Dist. 1238 Co. Welfare Rd, Ste 200 Leesport, PA 19533-9710 610.372.4657, Ext. 142

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
Hamburg Borough Berks County	PAG02000611003	Albright, Linda G. Borough of Hamburg 61 N. 3rd Street Hamburg, PA 19526	Mill Creek / Schuylkill River (TSF)	Berks Co. Conservation Dist. 1238 Co. Welfare Rd, Ste 200 Leesport, PA 19533-9710 610.372.4657, Ext. 142
Caernarvon Township Berks County	PAG02000611008	Kurtz, Tim 4350 Main Street Elverson, PA 19520	Conestoga (WWF)	Berks Co. Conservation Dist. 1238 Co. Welfare Rd, Ste 200 Leesport, PA 19533-9710 610.372.4657, Ext. 142
Ontelaunee Township Berks County	PAG02000611002	Smith, John Forino, Co., LP 555 Mountain Home Road Sinking Spring, PA 19608	Schuylkill River (CWF)	Berks Co. Conservation Dist. 1238 Co. Welfare Rd, Ste 200 Leesport, PA 19533-9710 610.372.4657, Ext. 142
Exeter Township Berks County	PAG02000606034R	Scott Sweigert Forino Company, LP 555 Mountain Home Road Sinking Spring, PA 19608	Heister's Creek (WWF)	Berks Co. Conservation Dist. 1238 Co. Welfare Rd, Ste 200 Leesport, PA 19533-9710 610.372.4657, Ext. 142
Antrim Township Franklin County	PAG02002811009	Rife Chicken Barn Dennis Rife 6724 Guitner Road Greencastle PA 17225	UNT to Conococheague WWF	Franklin County Conservation District 185 Franklin Farm Lane Chambersburg PA 17201 717-264-5499
Antrim Township Franklin County	PAG2002808(053)	Antrim Commons Business Park Warehouse Tim Hogan ACBP LP 16 E Baltimore St; Suite 1501 Baltimore MD 21202	UNT to Conococheague WWF	Franklin County Conservation District 185 Franklin Farm Lane Chambersburg PA 17201 717-264-5499
Montgomery Township Franklin County	PAG02002811006	Rowland Subdivision Amos Rowland Rowland—On Properties, Inc 12019 Kemps Mill Road Williamsport MD 21795	UNT to W. Br. Conococheague Cr TSF/MF	Franklin County Conservation District 185 Franklin Farm Lane Chambersburg PA 17201 717-264-5499
Greene Township Franklin County	PAG2002809011R	Larry Heck GWA 115 Spring Valley Road Chambersburg PA 17201	UNT to Conococheague WWF	Franklin County Conservation District 185 Franklin Farm Lane Chambersburg PA 17201 717-264-5499
Duncan Township Tioga County	PAG2005911003	Hydro Recovery- Antrim, L.P. SR 3009 Antrim, PA 16901	Wilson Creek CWF/MF	Tioga County Conservation District 50 Plaza Lane Wellsboro, PA 16901 (570) 724-1801, X 3
Washington County Cecil Township	PAG02006311011	Mr. and Mrs. Alfred Heirendt 23 Crestwood Drive Cecil, PA 15321	UNT to Millers Run (WWF)	Washington County CD 602 Courthouse Square Washington, PA 15301
Washington County East Bethlehem Township and Centerville Borough	PAG02006306025-R	Vestaburg-New Hill Joint Authority 301 Third Street PO Box 189 Vestaburg, PA 15368	Monongahela River, Barney's Run and Fishpot Run (WWF)	Washington County CD 602 Courthouse Square Washington, PA 15301

*General Permit Type—PAG-3**Facility Location:
Municipality &
County**Permit No.**Applicant Name &
Address**Receiving
Water / Use**Contact Office &
Phone No.*

Upper Macungie
Twp Lehigh County

PAR122212

Coca Cola Refreshments
7551 Schantz Road
Allentown PA 18106

UNT to Iron Run
(CWF, MF)

PA DEP
Northeast Regional Office
2 Public Square
Wilkes-Barre, PA
18701-1915
570-826-2511

Blythe Twp
Schuylkill County

PAR502209

Blythe Township
PO Box 91
Cumbola, PA 17931

Little Wolf Creek
(CWF, MF)

PA DEP
Northeast Regional Office
2 Public Square
Wilkes-Barre, PA
18701-1915
570-826-2511

Berks County
Laureldale Borough

PAR153502

Reitech Corporation
3146 Marion Avenue
Reading, PA 19605

Unt Bernhards Creek /
WWF / 3-C

DEP / SCRO
909 Elmerton Avenue
Harrisburg, PA 17110
717-705-4707

Berks County
Hamburg Borough

PAR203577

Fairmount Foundry, Inc.
PO Box 466
Hamburg, PA 19526

Schuylkill River /
CWF / 3-B

DEP / SCRO
909 Elmerton Avenue
Harrisburg, PA 17110
717-705-4707

*General Permit Type-PAG-4**Facility Location:
Municipality &
County**Permit No.**Applicant Name &
Address**Receiving
Water / Use**Contact Office &
Phone No.*

Fulton County /
Licking Creek
Township

PAG043915

Jean V. Davis and
James Skiles
1055 Celeste Drive
Shippensburg, PA 17257

UNT Sindeldecker
Branch / CWF

DEP—SCRO
909 Elmerton Avenue
Harrisburg, PA 17110
717-705-4707

Summit Township,
Erie County

PAG041032

Daniel Jenks
1159 West 7th St.
Erie, PA 16502

Unnamed tributary to
Walnut Creek 15

DEP NWRO
Water Management
230 Chestnut Street
Meadville PA 16335-3481
814-332-6942

Harborcreek
Township
Erie County

PAG041036

Linda Gilson
5785 Lunger Road
Erie, PA 16510

Unnamed tributary to
Sixmile Creek 15

DEP NWRO
Water Management
230 Chestnut Street
Meadville PA 16335-3481
814-332-6942

*General Permit Type—PAG-8**Facility Location:
Municipality &
County**Permit No.**Applicant Name &
Address**Site Name &
Location**Contact Office &
Phone No.*

Newport Borough
Perry County

PAG083558

Newport Borough
Sewer Authority
231 Market Street
Newport, PA 17074

Newport Borough
Wastewater
Treatment Plant
End of Spruce Street
Newport PA 17074

DEP—SCRO
909 Elmerton Avenue
Harrisburg, PA
17110-8200
717-705-4707

Granville Township
Mifflin County

PAG083606

Granville Township
Sewer and Water
Authority
100 Helen Street
Lewistown, PA 17044

Granville Township
Junction Wastewater
Treatment Plant
6310 S.R. 103 N
Lewistown, PA 17044

DEP—SCRO
909 Elmerton Avenue
Harrisburg, PA
17110-8200
717-705-4707

STATE CONSERVATION COMMISSION

NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS FOR NPDES PERMITS FOR CAFOs

The State Conservation Commission has taken the following actions on previously received applications for nutrient management plans under 3 Pa.C.S. Chapter 5, for agricultural operations that have or anticipate submitting applications for new, amended or renewed NPDES permits or NOIs for coverage under a general permit for CAFOs under 25 Pa. Code Chapter 92a. This notice is provided in accordance with 25 Pa. Code Chapter 92a and 40 CFR Part 122, implementing The Clean Streams Law and the Federal Clean Water Act.

Persons aggrieved by an action may appeal under 3 Pa.C.S. § 517, section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704 to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service at (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge actions, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary of the Board at (717) 787-3483 for more information.

CAFO PUBLIC NOTICE SPREADSHEET—ACTIONS

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Approved or Disapproved</i>
Richard W. Rutt 375 Nissley Road Mount Joy, PA 17552	Lancaster	102	439.40	Swine	HQ	Approved
Country View Family Farms Willow Hill Farm 12958 Creek Rd. Fannettsburg, PA 17221 Business address = 1301 Fulling Mill Rd. Suite 3000 Middletown, PA 17057	Franklin	120	1523.38	Swine	NA	Approved
Gerald Musser 118 Killinger Rd Annville, PA 17003	Lebanon	0	485.51	Poultry	NA	Approved
Alvin Weaver 52 Burkholder Lane Rd Fredericksburg PA 17026 (operation address) 991 Houtztown Rd Myerstown, PA 17067 (mailing address)	Lebanon	2.6	281.04	Poultry, swine and beef	NA	Approved

PUBLIC WATER SUPPLY PERMITS

The Department has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704. The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street,

PO Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this document to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act

Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110

Permit No. 2211502 MA, Minor Amendment, Public Water Supply.

Applicant	Pennsylvania American Water
Municipality	South Hanover Township
County	Dauphin
Responsible Official	Scott M Thomas, Sr. Operations Engineer 852 Wesley Drive Mechanicsburg, PA 17055-4475
Type of Facility	Replacement of the zinc orthophosphate bulk tank & the post caustic soda day tank.
Consulting Engineer	1 - Not Available
Permit to Construct Issued:	4/28/2011

Operations Permit issued to: **HMS Host**, 7381001, South Londonderry Township, **Lebanon County** on 5/4/2011 for the operation of facilities approved under Construction Permit No. 3809509.

Operations Permit issued to: **Middletown Borough Authority**, 7380038, Middletown Borough, **Dauphin County** on 5/2/2011 for the operation of facilities approved under Construction Permit No. 2209514 MA.

Operations Permit issued to: **Lykens Borough Authority**, 7220022, Lykens Borough, **Dauphin County** on 4/27/2011 for the operation of facilities approved under Construction Permit No. 2211504 MA.

Operations Permit issued to: **East Berlin Area Joint Authority**, 7010003, East Berlin Borough, **Adams County** on 5/3/2011 for the operation of facilities approved under Construction Permit No. 0110505 MA.

Operations Permit issued to: **HMS Host Corp**, 7381001, Lawn Township, **Lebanon County** on 5/4/2011 for the operation of facilities approved under Construction Permit No. 3810503.

Operations Permit issued to: **Quentin Water Company, Inc.**, 7380031, West Cornwall Township, **Lebanon County** on 5/3/2011 for the operation of facilities approved under Construction Permit No. 3810505 MA.

Operations Permit issued to: **Fishertown Water Association**, 4050029, East St. Clair Township, **Bedford County** on 4/26/2011 for the operation of facilities submitted under Application No. 0510505 MA.

Northcentral Region: Water Supply Management Program Manager, 208 West Third Street, Williamsport, PA 17701

Permit No. MA (6760-W)—Operation Public Water Supply.

Applicant	Williamsport Municipal Water Authority
[Township or Borough]	Duboisstown Borough
County	Lycoming
Responsible Official	Mr. Hugh Logue Williamsport Municipal Water Authority 253 West Fourth Street Williamsport, PA 17701
Type of Facility	Public Water Supply
Consulting Engineer	N/A
Permit Issued Date	May 5, 2011
Description of Action	Operation of a new underground booster pump station on Arlington Street in Duboisstown Borough to replace the old, deteriorated pump station at the same location.

Northwest Region: Water Supply Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Operations Permit issued to **Borough of East Brady**, PWSID, #6160003, East Brady Borough, **Clarion County**. Permit Number 1610501, issued May 4, 2011, for operation of Well No. 3. Permit is issued in response to an inspection conducted by Department personnel on March 21, 2011, and in accordance with construction permit 1610501.

Operations Permit issued to **Municipal Water Authority of Adams Township**, PWSID, #5100141, Adams Township, **Butler County**. Permit Number 1092502-T1-MA2, issued May 5, 2011, for operation of the newly constructed South Water Storage Tank. Permit is issued in response to an inspection conducted by Department personnel on March 3, 2011, and in accordance with construction permit 1092502-T1-MA2, issued July 22, 2009.

Operations Permit issued to **Municipal Authority of the Borough of Conneaut Lake**, PWSID, #6200015, Conneaut Lake Borough, **Crawford County**. Permit Number 2002501-MA1, issued May 5, 2011, for operation of 4-Log treatment of viruses for Entry Point 101. This permit action is taken under the requirements of the Groundwater Rule and is applied to operation permit 2002501.

Operations Permit issued to **Rose Township Municipal Authority**, PWSID, #6330018, Rose Township and Knox Township, **Jefferson County**. Permit Number 3386503-MA1, issued May 10, 2011, for operation of the previously constructed water distribution system for the existing Rose Township Municipal Authority. Permit is issued in response to action required by the May 19, 2009, Consent Order and Agreement between the Authority and the Department.

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted Under the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Port Allegany Borough	45 W Maple St, Port Allegany, PA 16743-1318	McKean

Plan Description: The approved plan provides for eliminating the need for a sewage treatment plant expansion (from 0.9 MGD to 1.5 MGD) which had been recommended in their November 2007 approved plan. This is a result of removing a large source of non contact cooling water. Remaining milestones include the systematic replacement of sanitary sewers, bypass manhold modification and existing drying bed rehabilitation. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal.

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Telephone: 717-705-4707.

Plan Location: on the east side of Blairs Valley Road, 1.2 miles south of Shimpstown Road.

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Montgomery Township	12868 Fort Loudon Rd Mercersburg PA 17236	Franklin County

Plan Description: The approved plan, in the name of Winter Greeses, provides for a new wastewater treatment plant to serve a proposed development of 31 single family dwellings and 69 multi-family dwelling units. The treatment plant is planned to discharge into the Little Conococheague Creek. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the owner.

HAZARDOUS SITES CLEAN-UP UNDER THE ACT OF OCTOBER 18, 1988

Notice of Proposed Interim Response Hilltop TCE, Limerick Township, Montgomery County

The Department of Environmental Protection (Department) under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. §§ 6020.102—6020.1303) is proposing an interim response at Hilltop TCE, Limerick Township, Montgomery County, Pennsylvania. The Site is located along School Road, North Limerick Road, Koch Drive, and Haines Drive. The site includes approximately 4 private wells impacted with Volatile Organic Compounds above federal safe drinking water act Maximum Contaminant Levels (MCLs). The area of the site consists mostly of rural residential properties.

In June 2000, the Montgomery County Health Department contact the Department about a recently constructed well with elevated levels of TCE. HSCA began an investigation to locate impacted homes. Over 30 homes have been sampled by the Department. Sampling has occurred during a period exceeding 10 years. A GTAC investigation was initiated in 2002 to discover a source area. Several monitoring wells were also installed in the site area and sampled to assist in delimitating the plume; concentration levels have been on a decline. No source

area was discovered. Annual sampling has been taking place to monitor the concentration at the site. The Department has also been providing bottled water or change outs of spent carbon filtration systems to impacted homes.

Volatile Organic Compounds have been released in the area with an unknown source. The MCL for both TCE and PCE is 5 Parts per billion (ppb). Most of the levels of TCE detected in affected residential wells are between below 1 to 10 ppb and most levels of PCE detected are between below 1 to 5 ppb. The highest concentrations were detected at 2000 ppb for TCE and 330 for PCE.

To address the release and threat of release of hazardous substances at the Site, and corresponding threats to human health and the environment, the Department proposes a response action at the Site under Sections 501(a) of HSCA, 35 P. S. § 6020.501(a). The Department hereby proposes the installation of whole house carbon filtration units on affected private residential water supplies with concentrations exceeding the MCL. This proposed alternative complies with Applicable, Relevant and Appropriate Requirements (ARARs) and is feasible and cost-effective. Other possible alternatives include taking no action, the installation of a public waterline and continuing to provide bottled water.

An Administrative Record, which contains more detailed information concerning this interim response action, is available for public inspection. The Administrative Record may be examined from 8:00 am until 4:00 pm at the Department's office at 2 East Main Street, Norristown PA 19401. Those interested in examining the Administrative Record should contact the Megan Harkins at (484) 250-5721 or William Blasberg at (484) 250-5865 to arrange for an appointment. An additional copy of the Administrative Record is available for review at the Limerick Township Municipal Building located at 646 West Ridge Pike, Limerick, PA 19468.

The Department will conduct a public hearing on June 30, 2011 at 7:00 pm at the Limerick Township Municipal Building located at 646 West Ridge Pike, Limerick, PA 19468. Anyone who would like to present formal oral comments regarding this proposed response may do so by registering with the Department before the meeting. Individuals may register by calling the Department's Community Relations Coordinator, Lynda Rebarchak (484) 250-5820.

Any person with a disability who wishes to attend the public hearing and will requires an auxiliary aid, service or other accommodation to participate in the proceedings should contact Lynda Rebarchak at the telephone number listed above or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs. The public may also submit written comments regarding the Department's Interim Response action during the period of public comment. In accordance with Section 506(c) of HSCA, 35 P. S. § 6020.506(c), the Department has established a period for public comment that is now open until close of business August 18, 2011. Written comments should be addressed to Megan Harkins, Project Officer, Pennsylvania Department of Environmental Protection, 2 East Main Street, Norristown, PA 19401. Anyone with questions regarding this notice should contact Megan Harkins at (484) 250-5721.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.907).

Provisions of Sections 301—308 of the Land Recycling and Environmental Remediation Standards Act (act) (35 P. S. §§ 6026.301—6026.308) require the Department to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, will also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a site-specific standard remediation. A remedial investigation report includes conclusions from the site investigation; concentration of regulated substances in environmental media; benefits of reuse of the property; and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the environmental cleanup program manager in the Department regional office under which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745

Daily News McKeesport, City of McKeesport, **Allegheny County**. Mountain Research LLC, 825 25th Street, Altoona, PA 16601 on behalf of Latrobe Printing and Publishing, PO Box 1894, Biddeford, ME 04005 and Tribune-review Publishing Co., D.L. Clark Building, Third Floor, 503 Martindale Street, Pittsburgh, PA has submitted a combined Remedial Investigation Report / Final Report concerning the remediation of site soil and groundwater contaminated with trichloroethene, tetrachloroethene, and cis-1,2-dichloroethene. The Report was published *Latrobe Bulletin* on August 26, 2010. The Site will remain nonresidential.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.907).

Section 250.8 of 25 Pa. Code and administration of the Land Recycling and Environmental Remediation Standards Act (act) require the Department to publish in the *Pennsylvania Bulletin* a notice of its final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation; concentration of regulated substances in environmental media; benefits of reuse of the property; and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the environmental cleanup program manager in the Department regional office under which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Northeast Region: Eric Supey, Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Racz-Muth Property, 8937 Breinig Run Circle, Upper Macungie Township, **Lehigh County**. Richard D. Trimpi and Janine Jacobs, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073 submitted a Final

Report (on behalf of their client, Aniko Racz-Muth, 8937 Breinig Run Circle, Breinigsville, PA 18031), concerning the remediation of soil and groundwater found to have been impacted by kerosene as a result of a release from a corroded, 275-gallon aboveground storage tank. The report documented attainment of the Residential Statewide Health Standard for soil and groundwater and was approved on May 4, 2011.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Former BP-Amoco Service Station #84749, 680 North Hanover Street, Carlisle Borough, **Cumberland County**. Sovereign Consulting, Inc., 111 A. North Gold Drive, Robbinsville, NJ 08691, on behalf of BP Products North America, Inc., 1 West Pennsylvania Avenue, Towson, MD 21204-5027, submitted a combined Remedial Investigation Report and Final Report concerning remediation of site soils and groundwater contaminated with gasoline from unregulated storage tanks. The Final Report demonstrated attainment of the Site Specific standard, and was approved by the Department on May 3, 2011.

Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481

ARG Refinery (Foster Brook Facility South), City of Bradford, **McKean County**. MACTEC Engineering and Consulting, Inc., 800 North Bell Avenue, Suite 200, Pittsburgh, PA 15106 on behalf of ARG Refining Group, Inc., 77 North Kendall Avenue, Bradford, PA 16701 and Chemtura Corporation, 199 Benson Road, Middlebury, CT 06749 has submitted a Revised Risk Assessment Report concerning the remediation of site soil and site groundwater contaminated with antimony, lead, selenium, benzene, arsenic, in addition to other petroleum refining related VOCs, SVOCs, and metals. The Revised Risk Assessment Report was approved by the Department on May 10, 2011.

DETERMINATION OF APPLICABILITY FOR RESIDUAL WASTE GENERAL PERMITS

Determination of Applicability for General Permit issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); and Residual Waste Regulations for a General Permit To Operate Residual Waste Processing Facilities (25 Pa. Code § 287.611 relating to authorization for general permit).

South Central Regional Office: Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200.

General Permit No. WMGR098-SC001. McConway & Torley, LLC, 230 Railroad Street, Kutztown, PA 19530-1199. The Department of Environmental Protection has issued a Determination of Applicability under General Permit WMGR098 to McConway & Torley, LLC, for the beneficial use of waste foundry system sand and sand system dusts, referred to as foundry sand, generated by ferrous metal foundries and steel foundries for use as construction material, or as a soil additive or soil amendment for foundry sand generated at their facility located at 230 Railroad Street, Kutztown, PA in the Borough of Kutztown, **Berks County**. This Determination of Applicability was issued on May 6, 2011.

Persons interested in reviewing the general permit may contact John Oren, Facilities Manager, Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA

17110, (717) 705-4706. TDD users may contact the Department through the Pennsylvania Relay service, (800) 654-5984.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790

Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507

58-329-031GP9: UGI Energy Services Inc. (One Meridian Blvd., Suite 2C01, Wyomissing, PA 19610) on April 27, 2011 for the construction and operation of one CAT diesel generator at the Auburn Compressor Station located in Auburn Twp., **Susquehanna County**.

45-310-058GP3: Papillon & Moyer Excavating LLC (816 North 9th Street, Stroudsburg, PA 18360) on April 27, 2011 for the construction and operation of a Portable Crushing Operation with watersprays at the site located in Chestnuthill Twp., **Monroe County**.

64-310-027GP3: Middle Creek Quarry Inc (2893A Owego Turnpike, Hawley, PA 18428) on April 28, 2011 for the construction and operation of a Portable Crushing Operation with watersprays at the site located in Hawley Borough, **Wayne County**.

64-329-002GP9: Middle Creek Quarry Inc. (2893A Owego Turnpike, Hawley, PA 18428) on April 28, 2011 for the installation and operation of diesel IC engines at the site located in Hawley Borough, **Wayne County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110

Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 717-949-7935

GP15-36-03184: Land O' Lakes Purina Feed LLC—dba Hess Mills (6 South Vintage Road, PO Box 189, Paradise, PA 17562) on May 6, 2011 for the feed mill operation located in Paradise Township, **Lancaster County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745

Contact: Mark Gorog and Barb Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226

GP5-30-00201: Coal Gas Recovery, LLC (158 Portal Road, P. O. Box 1020, Waynesburg, PA 15370) on May 4, 2011, to allow the installation and operation of a new coal bed methane extraction facility under GP-5 consisting of one natural gas fired engine at 425 bhp and controlled by an oxidation catalyst to be named DFM 3/4 and, located in Center Township, **Greene County**.

Plan Approvals Issued under the Air Pollution Control Act and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790

Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507

48-309-134: ESSROC Cement Corp. (Route 248 and Easton Road, Nazareth, PA 18064) on May 4, 2011 for installation of two new preheat furnaces at the facility located in Nazareth Twp., **Northampton County**.

54-308-026: SAPA Extrusions Inc. (53 Pottsville Road, Cressona, PA 17929) on May 3, 2011 for the installation of two new preheat furnaces at the facility located in

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110

Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 717-949-7935

06-05116A: Packaging Corporation of America (1900 West Field Court, Lake Forest, IL 60045-4828) on May 6, 2011, for installation and start-up of a corrugated box manufacturing facility in Muhlenberg Township, **Berks County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701

Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648

17-00066A: Allied Production Services Inc. (1102 Industrial Park Drive, Clearfield, PA 16830) on April 12, 2011, for construction of a surface coating operation consisting of a paint booth and natural gas fired curing oven at their facility located in Lawrence Township, **Clearfield County**.

60-00014A: Evangelical Community Hospital. (One Hospital Drive, Lewisburg, PA 17837) on April 15, 2011, for the construction of a 24.7 million Btu per hour, biomass-fired boiler at their facility in Kelly Township, **Union County**.

08-00030A: Angelina Gathering Company (2350 North Sam Houston Parkway East, Houston, TX 77009) on April 19, 2011, to modify Plan Approval 08-00030A to reflect the model numbers for the oxidation catalysts (ID C101) associated with the compressor engines incorporated in Source ID P101 in Plan Approval 08-00030A at the Greenzweig Compressor Station located in Herrick Township, **Bradford County**.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110

Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 717-949-7935

06-05024C: GenOn REMA, LLC (121 Champion Way, Canonsburg, PA 15317-5817) on April 27, 2011, for installation of a carbon injection system for mercury control on the utility boilers at the Titus electric power plant in Cumru Township, **Berks County**. The plan approval was modified to reflect a company name change.

06-05096C: The Reading Hospital and Medical Center (PO Box 16052, Reading, PA 19612-6052) on May 5, 2011, for a cogeneration plant and emergency generator at the Reading Hospital located in West Reading Borough, **Berks County**. The plan approval was extended.

07-03058A: NPC, Inc. (13710 Dunning Highway, Claysburg, PA 16625) on May 5, 2011, for two (2) heat set web presses with dryers controlled by a regenerative thermal oxidizer at the printing facility located in Greenfield Township, **Blair County**. The plan approval was extended.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701

Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648

08-313-004J: Global Tungsten & Powders, Corp. (Hawes Street, North Towanda, PA 18848) on April 4, 2011, to extend the authorization to temporarily operate two new process tanks and associated scrubber at their facility located in North Towanda Township, **Bradford County** until October 10, 2011. The plan approval has been extended.

08-313-042D: Global Tungsten & Powders, Corp. (Hawes Street, North Towanda, PA 18848) on April 18, 2011, to extend the authorization to temporarily operate a new Progressive Technologies model HE-100 plasma gun (PMI gun #1, Source ID P227) for their facility, located in North Towanda Township, **Bradford County** until November 14, 2011. The particulate matter and hazardous air pollutant emissions from the PMI gun will be controlled by a Farr-Tenkay fabric collector and final filter. The plan approval has been extended.

17-00017C: Rescar, Inc. (407 W Brentwood Street, Channelview, TX 77530-3952) on April 25, 2011 to extend the authorization to operate an abrasive blasting operation at their facility in DuBois, **Clearfield County** on a temporary basis to October 20, 2011. The plan approval has been extended.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745

Contact: M. Gorog & B. Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226

PA-65-00966A: Greensburg Thermal, LLC (755 Opossum Lake Road, Carlisle, PA, 17015) on May 5, 2011, to revise the fuel requirements and associated conditions to include coal/biomass blend and to incorporate emissions limitations at the SCI Greensburg steam plant located in Hempfield Township, **Westmoreland County**. The Plan Approval Expires on July 6, 2011.

PA-63-00549B: Arden Landfill, Inc. (625 Cherrington Parkway, Moon Township, PA 15108) on May 4, 2011, for an extension of the Plan Approval to amend the Title V Permit after the approval of emissions tests by central office. The facility is located at Chartiers Township, **Washington County**. This is a plan approval extension.

PA-63-00110H World Kitchen, Inc. (100 Eighth Street, Charleroi, PA 15022) on May 6, 2011, to increase allowable SOx emissions from Source 107. PA-63-00110H has also been extended to November 7, 2011. This is a plan approval modification and extension.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19428

Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920

46-00232: Cemcolift, Inc. (280 Township Line Road, Hatfield, PA 19440) on May 3, 2011, for a State-Only, Synthetic Minor Operating Permit in Hatfield Township, **Montgomery County**. Cemcolift manufactures elevator systems and components for commercial and residential use. This facility is a Synthetic Minor facility for VOC. Total VOC emissions from the facility are limited to 11.30 tons per year, on a 12-month rolling sum basis. This is a renewal of the State Only Operating Permit. Cemcolift is not requesting any air emission increase with this application. The Operating Permit will contain monitoring, recordkeeping, and reporting requirements designed to address all applicable air quality requirements.

46-00146: Republic Environmental Systems of PA, LLC (2869 Sandstone Drive, PA 19440) on May 3, 2011, for a renewal of State-only (Synthetic Minor) Operating Permit, which was originally issued on March 6, 2006 in Hatfield Township, **Montgomery County**. No major changes have occurred at the facility since the permit was originally issued. The renewed permit will include monitoring, recordkeeping, and work practice requirements designed to keep the facility operating within all applicable air quality requirements.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790

Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507

54-00039: Pennsy Supply - Summit Station (P. O. Box 3331, Harrisburg, PA 17105) on May 5, 2011, for the operation of an asphalt plant in Wayne Township, **Schuylkill County**.

45-00016: Harsco Corp. - East Stroudsburg Plant (100 Burson Street, East Stroudsburg, PA 18301-2245) on May 5, 2011, for a State Only Operating Permit for current carrying wiring device manufacturing operation in East Stroudsburg Borough, **Monroe County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110

Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 717-949-7935

36-03005: Intelligencer Printing Co., Inc. (330 Eden Road, Lancaster, PA 17601-4218) on May 5, 2011, for their printing facility in Manheim Township, **Lancaster County**. The State-only permit was renewed.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481

Contact: Edward Orris, New Source Review Chief—Telephone: 814-332-616636

10-00355: Glacial Sand & Gravel Company / Rodgers Site (P. O. Box 1022, Kittanning, PA 16201), on May 6, 2011, the Department issued a Natural Minor Permit to operate a sand and gravel processing facility located at the intersection of T860 and T383 (Swope and W. Liberty), Harrisville, PA in Worth Township, **Butler County**.

16-00131: Allegheny Wood Products International, Inc., Marble Hardwood Mill (Highway 208, Marble, PA 16334), on May 3, 2011, the Department re-issued a Synthetic Minor Permit to operate a hardwood kiln drying operation located in Washington Township, **Clarion County**. The primary operations at this facility are the 25 million Btu wood fired boiler and (8) lumber drying kilns.

37-00121: Flowline Division Of Markovitz Enterprises Inc. (1400 New Butler Road, New Castle, PA

16107) on May 3, 2011, for a natural minor permit to operate a valves and fittings production facility. The facility is located in New Castle City, **Lawrence County**. The facility's major emissions include a degreaser boiler, plasma torch cutting, hand grinding stations (4), a batch vapor degreaser, acid cleaning, press operations, miscellaneous natural gas fired furnaces and Hydra-Flow parts washer. The facility has changed the degreasing solvent from Trichloroethylene (HAP) to n-Propyle Bromide (nPB) (VOC). Thus, this facility is now natural minor.

61-00032: Hickman Lumber Company (P. O. Box 130, Emlenton, PA 16373-9305), on May 3, 2011, the Department re-issued a Natural Minor Operating Permit to operate a hardwood sawmill and kiln operation located in Scrubgrass Township, **Venango County**.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110

Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 717-949-7935

AR-06-05024: GenOn REMA, LLC (121 Champion Way, Canonsburg, PA 15317) on April 25, 2011, for operation of an electricity generating station at their Titus Station in Cumru Township, **Berks County**. The facility is subject to Title IV (Acid Rain) Phase II. This action is an administrative amendment of the existing acid rain permit to reflect the permittee's change of name.

06-05024: GenOn REMA, LLC (121 Champion Way, Canonsburg, PA 15317) on April 27, 2011, for operation of an electricity generating station at their Titus Station in Cumru Township, **Berks County**. This action is an administrative amendment of the Title V permit to reflect the permittee's change of name.

34-03006: Stella Jones Corporation (PO Box 251, McAllisterville, PA 17049-0251) on May 3, 2011, for the railroad tie pressure treating facility in Fayette Township, **Juniata County**. The State-only permit was administratively amended to reflect a name change for the permittee.

ARP-01-05029: GenOn Wholesale Generation, LP (121 Champion Way, Suite 200, Canonsburg, PA 15317-5817) on May 5, 2011, for the operation of Hunterstown electric generating station in Straban Township, **Adams County**. The facility is subject to Title IV (Acid Rain) Phase II. This action is an administrative amendment of the existing acid rain permit to reflect the permittee's change of name.

67-05020: Exelon Generation Co., LLC (1848 Lay Road, Delta, PA 17314-9032) on May 4, 2011, for the Peach Bottom nuclear power plant located in Peach Bottom Township, **York County**. The State-only permit was administratively amended to incorporate the requirements of Plan Approval No. 67-05020A.

Operating Permits Denied, Terminated, Suspended or Revoked under the Air Pollution Control Act and 25 Pa. Code §§ 127.431 and 127.461.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481

Contact: Edward Orris, New Source Review Chief—
Telephone: 814-332-6636

10-00293: Quality Aggregates / Boyers Tiche Mine (201 Deer Road, Boyers, PA 16020-1705), on April 27, 2011, for revocation of their State Operating Permit for the limestone processing facility in Marion Township, **Butler County**. The facility is no longer operating and does not seek renewal of the operating permit, the operating permit was therefore revoked.

33-00145: Huntington Foam LLC (222 Industrial Park Drive, Brockway, PA 15824-1244), on April 26, 2011, for revocation of their State Operating Permit for the plastic manufacturing facility in Brockway Borough, **Jefferson County**. The last day of operation at the facility was March 21, 2011. Since the facility is no longer operating and does not seek renewal of the operating permit, the operating permit was therefore revoked.

37-00306: Three Rivers Aggregates LLC / Taylor Run Plant (225 North Shore Drive, Pittsburgh, PA 15212), on April 28, 2011, for revocation of their State Operating Permit for the sand and gravel processing facility in Scott Township, **Lawrence County**. Production at the plant is no longer occurring and the facility does not seek renewal of the operating permit for the Taylor Run Site, the operating permit was therefore revoked.

37-00308: Glacial Sand & Gravel / Elliot Prep Plant (PO Box 1022, Kittanning, PA 16201-5022), on April 27, 2011, for revocation of their State Operating Permit for the sand and gravel processing facility in Plain Grove Township, **Lawrence County**. The plant was moved to Rodgers Site and the facility does not seek renewal of the operating permit for the Elliot Site, the operating permit was therefore revoked.

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.20a). Mining activity permits issued in response to such applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department. A copy of the application is available for inspection at the district mining office indicated before each application. Notices of requests for 401 Water Quality Certifications are included in individual application notices, as noted.

Written comments or objections, or requests for an informal conference, or a public hearing, as applicable, on a mining permit application may be submitted by any person or any officer or head of any Federal, state or local government agency or authority to the Department at the address of the district mining office indicated before each application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

Written comments or objections regarding a mining permit application should contain the name, address and telephone number of persons submitting comments or objections, application number and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based.

A request for an informal conference or a public hearing, as applicable, on a mining permit application, as provided by 25 Pa. Code §§ 77.123 or 86.34, must contain the name, address and telephone number of the requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor desires to have the conference conducted in the locality of the proposed mining activities.

When an NPDES number is listed, the mining activity permit application was accompanied by an application for an individual NPDES permit. A separate notice will be provided after the draft NPDES permit is prepared.

Coal Applications Returned

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118

54920203R3. B-D Mining Company, (10 Gilberton Road, Gilberton, PA 17934), renewal of an existing anthracite coal refuse reprocessing operation (replaced by Reading Anthracite Company SMP No. 54793206) in Mahanoy Township and Shenandoah Borough, **Schuylkill County** 86.0 acres, receiving stream: none. Application received: May 14, 2008. Application returned: May 9, 2011.

54663010R5. Reading Anthracite Company, (P. O. Box 1200, Pottsville, PA 17901), renewal of an existing anthracite surface mine operation (replaced by SMP No. 54793206) in Mahanoy Township, **Schuylkill County** affecting 173.0 acres, receiving stream: none. Application Received: September 14, 2010. Application Returned: May 9, 2011.

Coal Permits Actions

California District Office: 25 Technology Drive, Coal Center, PA 15423, 724-769-1100

30831303. Cumberland Coal Resources, LP (158 Portal Road, P. O. Box 1020, Waynesburg, PA 15370), to revise the permit for the Cumberland Mine in Whiteley Township, **Greene County**. ACOE Pittsburgh (Garards Fort, PA and Oak Forest, PA Quadrangle, bound by the following points N: 8.50 inches; W: 13.60 inches to N: 14.04 inches; W: 0.31 inches to N: 15.08 inches; W: 12.58 inches, to N: 12.74 inches; W: 11.75 inches. This is a Chapter 105 Water Obstruction and Encroachment permit application (Stream Module 15), and 401 Water Quality Certification request, if applicable, submitted as part of the mining permit revision application to authorize the stream restoration for pooling or flow loss due to longwall mining to four areas of Dyers Fork, five areas of UNT (unnamed tributary) 41264 to Dyers Fork, four areas of Dutch Run, one area of UNT 41247 to Dutch Run, three areas of UNT 41248 to Dutch Run, three areas of UNT 41282 to Whiteley Creek, two areas of UNT 41283 to Whiteley Creek, and two areas of UNT 41258 to Whiteley Creek. Application received: August 3, 2009. Permit issued: May 3, 2011.

32961302 and NPDES No. PA0214949, AMFIRE Mining Company, LLC, (One Energy Place, Latrobe, PA 15650), to revise the permit for the Ondo Mine in Brush Valley and Center Townships, **Indiana County** to add acres to the underground permit and subsidence control plan area. Underground Acres Proposed 233.2, Subsidence Control Plan Acres Proposed 218.1. No additional discharges. The first downstream potable water supply intake from the point of discharge is Central Indiana County Water Authority. Application received: November 23, 2009. Permit issued: May 3, 2011.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900

56050105 and NPDES No. PA0249793. Svonavec, Inc., 150 West Union Street, Somerset, PA 15501, permit renewal for the continued operation and restoration of a bituminous surface mine in Milford Township, **Somerset County**, affecting 273.6 acres. Receiving stream(s): unnamed tributaries to and Middle Creek and unnamed tributaries to and South Glade Creek classified for the following use(s): trout stocked fishery, warm water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: October 28, 2010. Permit issued: May 3, 2011.

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925-5500

26090106 and NPDES Permit No. PA0251844. Amerikohl Mining, Inc. (1384 State Route 711, Stahlstown, PA 15687). Permit issued for commencement, operation, and reclamation of a bituminous surface mining site located in Springfield Township, **Fayette County**, affecting 194.0 acres. Receiving streams: unnamed tributaries to Indian Creek and Indian Creek. Application received: December 23, 2009. Permit issued: April 25, 2011.

03080101 and NPDES Permit No. PA0251364. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001). Permit revised to add 23.7 acres of Lower Kittanning coal, and revise the erosion and sedimentation controls and Modules 10 and 26 at an existing bituminous surface mining site located in Redbank Township, **Armstrong County**, affecting 125.0 acres. Receiving streams: unnamed tributaries to Mahoning Creek. Revision application received: December 8, 2010. Permit revision issued: April 25, 2011.

26080104 and NPDES Permit No. PA0251453. Steve Patterson Excavating (170 Yasenosky Road, Smithfield, PA 15478). Permit issued for commencement, operation, and reclamation of a bituminous surface mining site located in Dunbar Township, **Fayette County**, affecting 88.2 acres. Receiving streams: unnamed tributary to Dunbar Creek. Application received: August 7, 2008. Permit issued: April 27, 2011.

63100101 and NPDES Permit No. PA0251933. Neiswonger Construction, Inc. (17592 Route 322, Strattanville, PA 16258). Permit issued for commencement, operation, and reclamation of a bituminous surface mining site located in Somerset Township, **Washington County**, affecting 293.9 acres. Receiving streams: Center Branch of Pigeon Creek and unnamed tributaries to Center Branch Pigeon Creek. Application received: April 16, 2010. Permit issued: May 6, 2011.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200

17900104 and NPDES No. PA0116939. Hepburnia Coal Co. (P. O. Box 1, Grampian, PA 16838). Renewal of

an existing bituminous surface mine located in Brady and Bell Townships, **Clearfield County** affecting 537.6 acres. Receiving streams: Buck Run and Beech Run and unnamed tributaries to Beech Run classified for cold water fisheries. There are no potable water supply intakes within 10 miles downstream. Application received: October 4, 2010. Permit issued: May 4, 2011.

17040104 and NPDES No. PA0243787. Forcey Coal, Inc. (P. O. Box 225, Madera, PA 16661). Permit revision to an existing bituminous surface mine located in Jordan Township, **Clearfield County** to utilize biosolids as a soil amendment. The original surface mining permit was issued for 121.0 acres. This proposed biosolids reclamation includes 70.4 acres of that area. Receiving streams: unnamed tributaries #1 and #3 to Potts Run classified for cold water fisheries. There are no potable water supply intakes within 10 miles downstream. Application received: February 7, 2011. Permit issued: April 29, 2011.

17080111 and NPDES No. PA0256901. Waroquier Coal Co. (P. O. Box 128, Clearfield, PA 16830). Revision to an existing bituminous surface mine located in Lawrence Township, **Clearfield County** affecting 175.0 acres. Revision to add 1.0 acre to the surface mine permit boundary to include a haul road onto T-443 and does not include any additional mining. Receiving streams: unnamed tributaries to the West Branch of the Susquehanna River and the Susquehanna River classified for cold water fisheries. There are no potable water supply intakes within 10 miles downstream. Application received: January 5, 2011. Permit issued: March 2, 2011.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118

54793206R5. Reading Anthracite Company, (P. O. Box 1200, Pottsville, PA 17901), renewal of an existing anthracite surface mine, coal refuse reprocess, coal preparation plant operation with ash disposal and composted sewage sludge in Mahanoy Township, **Schuylkill County** affecting 3038.0 acres, receiving stream: Mahanoy Creek. Application received: July 21, 2010. Renewal issued: May 9, 2011.

54793206C26. Reading Anthracite Company, (P. O. Box 1200, Pottsville, PA 17901), correction of an existing anthracite surface mine, coal refuse reprocess, coal preparation plant operation with ash disposal and composted sewage sludge to encompass Reading's SMP No. 54663010 and B-D Mining Company SMP Nos. 54773214 and 54920203 in Mahanoy Township, **Schuylkill County** affecting 3038.0 acres, receiving stream: Mahanoy Creek. Application received: June 23, 2010. Correction issued: May 9, 2011.

Noncoal Permits Actions

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900

05910301 and NPDES Permit No. PA0599085. New Enterprise Stone & Lime Company, Inc., P. O. Box 77, New Enterprise, PA 16664, renewal of NPDES Permit, Napier and West St. Clair Townships, **Bedford County**. Receiving stream(s): UT to and Dunning Creek classified for the following use(s): warm water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: February 18, 2011. Permit issued: May 3, 2011.

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

Actions on applications under the Explosives Acts of 1937 and 1957 and 25 Pa. Code § 211.124. Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.

Blasting Permits Actions

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900

BAP No. 07114001. Appalachian Geophysical Services, LLC, P. O. Box 426, Killbuck, OH 44637, blasting activity permit issued for seismic exploration project in Juniata Township, **Blair County**. Blasting activity permit end date is November 14, 2011. Permit issued: May 4, 2011.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118

38114106. J Roy's, Inc., (P. O. Box 125, Bowmansville, PA 17507), construction blasting for South Annville Township Sewer Extension in South Annville and North Cornwall Townships, **Lebanon County** with an expiration date of May 3, 2012. Permit issued: May 3, 2011.

22114102. Newville Construction Services, Inc., (408 Mohawk Road, Newville, PA 17241), construction blasting for JB Hunt Terminal in Susquehanna Township, **Dauphin County** with an expiration date of April 25, 2012. Permit issued: May 4, 2011.

36114126. Maine Drilling & Blasting, (P. O. Box 1140, Gardiner, ME 04345), construction blasting for The Farms in Manheim Township, **Lancaster County** with an expiration date of May 2, 2012. Permit issued: May 4, 2011.

36114127. Maine Drilling & Blasting, (P. O. Box 1140, Gardiner, ME 04345), construction blasting for Worthington Commons in Manheim Township, **Lancaster County** with an expiration date of May 3, 2012. Permit issued: May 4, 2011.

46114001. Explo-Craft, Inc. (P. O. Box 1332, West Chester, PA 19380), construction blasting at the Shipley School in Lower Merion Township, **Montgomery County** with an expiration date of December 31, 2011. Permit issued: May 4, 2011.

40114106. Hayduk Enterprises, Inc., (257 Riverside Drive, Factoryville, PA 18419), construction blasting for Fairmount Township Shale Pit in Fairmount Township, **Luzerne County** with an expiration date of May 31, 2012. Permit issued: May 9, 2011.

40114107. Brubacher Excavating, Inc., (P. O. Box 528, Bowmansville, PA 17507), construction blasting for Freeland Waste Water Treatment Plant upgrade in Foster Township, **Luzerne County** with an expiration date of April 30, 2012. Permit issued: May 9, 2011.

58114108. Hayduk Enterprises, Inc., (257 Riverside Drive, Factoryville, PA 18419), construction blasting for J Lyman 1H, 2H & 3H Well pad in Springville Township, **Susquehanna County** with an expiration date of May 31, 2012. Permit issued: May 9, 2011.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department has taken the following actions on previously received permit applications, requests for Envi-

ronmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704. The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, PO Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P.S. § 679.302) and The Clean Streams Law and Notice of Final Action for Certification under section 401 of the FWPCA.

Permits, Environmental Assessments and 401 Water Quality Certifications Issued:

WATER OBSTRUCTIONS AND ENCROACHMENTS

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Telephone: 717-705-4707.

E50-249: George W. Howe, 921 Miller Street, Lebanon, PA 17046, in Penn Township, **Perry County**, ACOE Baltimore District

To construct and maintain a 26.5-foot wide x 36.0-foot long single family home and a 12.0-foot wide x 100.0-foot long driveway in the floodway of the Susquehanna River (WWF). The project is located approximately 0.22 mile northeast of the intersection of Railroad Street and Route 11 (Harrisburg West, PA Quadrangle; N: 19.5 inches, W: 15.75 inches; Latitude: 40°21'23.4", Longitude: -76°59'16.2") in Penn Township, Perry County. There are no proposed wetland impacts.

Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636

E14-541. Y2M2 Enterprises, LLC, 463 East Linn Street, Bellefonte, PA 16823-1707. Parcel 2, 167 South Potter Street, in Bellefonte Borough, **Centre County**, ACOE Baltimore District (Bellefonte, PA Quadrangle N: 40°54'36.7"; W: -77°47'2.4).

To construct and maintain 640 square feet of fill in the left 100-year FEMA flood way of Spring Creek for a handicap paved parking and a handicap accessible concrete ramp on the downstream side of an existing commercial building located 200 feet west on South Potter Street from its intersection with South Thomas Street. This permit was issued under Section 105.13(e) "Small Projects."

Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E30-233. CJF Property Holding, LLC, 116 Moonlite Drive, Smithfield, PA 15478. The applicant proposes to:

1. operate and maintain 173 linear feet of relocated Muddy Creek (WWF) - (Approximately 912 linear feet of said stream was filled, resulting in the net loss of 739 linear feet of watercourse);

2. operate and maintain fill, a building and a bunker complex, within the floodway along Muddy Creek;

3. construct and maintain fill and stormwater management facilities within the floodway along Muddy Creek;

4. construct and maintain stream restoration, including stream bank layback and stream bank and riparian corridor planting, etc., along approximately 2010 linear feet of Muddy Creek;

5. restore 0.08 acre of wetland by removing previously placed fill, restoring the affected wetland to its original grades, and replanting the restored wetland with a native wetland seed mix;

for the purpose of constructing a commercial development at 1647 E. Furman Highway, near the intersection of S.R. 21 and Cress Road (Mather, PA Quadrangle N: 1.2 inches; W: 5.00 inches; Latitude: 39-52-54; Longitude: 80-02-08) in Cumberland Township, Greene County.

EROSION AND SEDIMENT CONTROL

The following Erosion and Sediment Control permits have been issued.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704. The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, PO Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

Northcentral Region: Oil & Gas Management Program Manager, 208 West Third Street, Williamsport, PA 17701

ESCGP-1 # ESX11-037-0005

Applicant Name XTO Energy, Inc.

Contact Person Stacey Vehovic

Address 395 Airport Road

City, State, Zip Indiana, PA 15701

County Columbia

Township(s) Pine Twp.

Receiving Stream(s) and Classification(s) Little Brier Run (EV, MF), Little Fishing Creek (EV, MF)

ESCGP-1 # ESX11-037-0006

Applicant Name Mountain Gathering, LLC

Contact Person Dewey Chalos

Address 810 Houston Street

City, State, Zip Forth Worth, TX 76102

County Columbia

Township(s) Pine and Jackson Twps.

Receiving Stream(s) and Classification(s) Little Fishing Cr, Little Brian Run (EV)

ESCGP-1 # ESX10-015-0114(01)

Applicant Name Appalachia Midstream Services, LLC

Contact Person Robert Malecki

Address 100 1st Center

City, State, Zip Horseheads, NY 14845

County Bradford

Township(s) Granville Twp.

Receiving Stream(s) and Classification(s) UNT to UNT to North Br. of Towanda Cr—Upper Susquehanna—Tuckhannock Watershed

ESCGP-1 # ESX11-117-0046

Applicant Name EQT Production Company

Contact Person Todd Klaner

Address 455 Racetrack Road

City, State, Zip Washington, PA 15301

County Tioga

Township(s) Duncan Twp.

Receiving Stream(s) and Classification(s) UNT to Babb Cr, Babb Cr (HQ-CWF); (2) UNTs to Wilson Cr, Wilson Cr (CWF)

ESCGP-1 # ESX11-015-0071

Applicant Name Chesapeake Appalachia, LLC

Contact Person Eric Haskins

Address 101 North Main Street

City, State, Zip Athens, PA 18810

County Bradford

Township(s) Smithfield Twp.

Receiving Stream(s) and Classification(s) UNT to W. Br. Tomjack Cr, UNT to Tomjack Cr, W. Br Tomjack Cr, Tomjack Cr (all TSF)

ESCGP-1 # ESX11-115-0033

Applicant Name Carrizo Marcellus LLC

Contact Person Gary Byron

Address 251 Drainlick Road, P. O. Box 231

City, State, Zip Drifting, PA 16834

County Susquehanna

Township(s) Forest Lake Twp.

Receiving Stream(s) and Classification(s) UNT to Fall Bro, Snake Cr (EV)

ESCGP-1 # ESX11-081-0036

Applicant Name Anadarko E&P Company LP

Contact Person Bertha Nefe

Address P. O. Box 1330
City, State, Zip Houston, TX 77251-1330
County Lycoming
Township(s) McHenry Twp.
Receiving Stream(s) and Classification(s) English Run,
Browns Run, UNT Browns Run, Pine Creek (HQ-CWF,
MF)

ESCGP-1 # ESX11-035-0006
Applicant Name Anadarko Marcellus Midstream, LLC
Contact Person Bertha Nefe
Address P. O. Box 1330
City, State, Zip Houston, TX 77251-1330
County Clinton
Township(s) Grugan Twp.
Receiving Stream(s) and Classification(s) UNT to Hyner
Run (HQ, CWF, MF)

ESCGP-1 # ESX10-035-0002(01)
Applicant Name Anadarko Marcellus Midstream, LLC
Contact Person Bertha Nefe
Address P. O. Box 1330
City, State, Zip Houston, TX 77251-1330
County Clinton
Township(s) Gallagher Twp.
Receiving Stream(s) and Classification(s) UNT to Hyner
Run (HQ, CWF, MF)

ESCGP-1 # ESX11-115-0046
Applicant Name Williams Production Appalachia LLC
Contact Person David Freudenrich
Address 1000 Town Center, Ste 130
City, State, Zip Canonsburg, PA 15317
County Susquehanna
Township(s) Franklin Twp.
Receiving Stream(s) and Classification(s) UNT to Snak
Cr, Snake Cr (CWF, MF)

ESCGP-1 # ESX11-131-0010
Applicant Name Chief Oil & Gas LLC
Contact Person Michael Hritz
Address 6051 Wallace Road Ext, Ste 210
City, State, Zip Wexford, PA 15090
County Wyoming
Township(s) Tunkhannock and Lemon Twps
Receiving Stream(s) and Classification(s) UNT to
Tunkhannock Cr (CWF, MF), Tunkhannock Cr
(TSF, MF)

ESCGP-1 # ESX11-117-0048
Applicant Name Talisman Energy USA, Inc
Contact Person Tracy Gregory
Address 337 Daniel Zenker Drive
City, State, Zip Horseheads, NY 14845
County Tioga
Township(s) Ward Twp.
Receiving Stream(s) and Classification(s) UNT to Morris
Run (CWF/MF), Fall Brook (CWF/MF), Morris Run

ESCGP-1 # ESX11-117-0049
Applicant Name SWEPI LP
Contact Person Richard Lewis
Address 190 Thorn Hill Road
City, State, Zip Warrendale, PA 15086
County Tioga
Township(s) Liberty Twp.
Receiving Stream(s) and Classification(s) UNT to Brion
Cr, trib to Roaring Br, trib to Lycoming Cr, UNT to
Roaring Br, UNT to Salt Spring Run, (HQ-CWF)

ESCGP-1 # ESX11-105-0004
Applicant Name SM Energy Company
Contact Person Robert Gleeson
Address 7060 S. Yale, Suite 800
City, State, Zip Tulsa, OK 74136
County Potter
Township(s) Bingham Twp.
Receiving Stream(s) and Classification(s) (2) UNTs to
Genesee River (CWF), Genesee River (CWF)

ESCGP-1 # ESX11-081-0035
Applicant Name PVR Marcellus Gas Gathering, LLC
Contact Person Jeffrey Searfoss
Address 25 West Third Street, 100 Penn Tower,
Ste 201-202
City, State, Zip Williamsport, PA 17701
County Lycoming
Township(s) Cummings Twp.
Receiving Stream(s) and Classification(s) Pond Lick Cove,
Tarklin Run, (EV); First Fork Larry's Cr

ESCGP-1 # ESX11-115-0023
Applicant Name Southwestern Energy Production
Company
Contact Person Dave Sweeley
Address 917 SR 92 North
City, State, Zip Tunkhannock, PA 18657
County Susquehanna
Township(s) New Milford Twp.
Receiving Stream(s) and Classification(s) UNT to Martins
Cr—CWF

ESCGP-1 # ESX11-115-0036
Applicant Name Southwestern Energy Production
Company
Contact Person Dave Sweeley
Address 917 SR 92 North
City, State, Zip Tunkhannock, PA 18657
County Susquehanna
Township(s) New Milford Twp.
Receiving Stream(s) and Classification(s) Nine Partners
Cr (CWF), E. Br. Martins Cr (CWF), (2) UNTs to
Meylert Cr (HQ-CWF), Meylert Cr (HQ-CWF)

ESCGP-1 # ESX11-115-0039
Applicant Name Southwestern Energy Production
Company
Contact Person Dave Sweeley
Address 917 SR 92 North
City, State, Zip Tunkhannock, PA 18657
County Susquehanna
Township(s) Lenox Twp.
Receiving Stream(s) and Classification(s) UNT to E. Br of
Tunkhannock Cr (CWF), E. Br. of Tunkhannock Cr
(CWF), Tunkhannock Cr (TSF)

ESCGP-1 # ESX11-115-0024
Applicant Name Southwestern Energy Production
Company
Contact Person Dave Sweeley
Address 917 SR 92 North
City, State, Zip Tunkhannock, PA 18657
County Susquehanna
Township(s) New Milford Twp.
Receiving Stream(s) and Classification(s) UNT to Meylert
Cr (HQ)

*Northwest Region: Oil and Gas Program Manager, 230
Chestnut St., Meadville, PA 16335*

ESCGP-1 #ESX11-047-0020 Weedville Marcellus Well
Project
Applicant EQT Production Company
Contact Todd Klaner

Address 455 Racetrack Rd., Suite 101
City Washington State PA Zip Code 15301
County Elk Township(s) Jay(s)

Receiving Stream(s) and Classification(s) Kersey Run/
Bennett Branch Sinnemahoning Creek—CWF, MF—
Secondary Water: Sinnemahoning Creek

ESCGP-1 #ESX11-047-0021—HM1 Wt 3284 PAT & IMP 5
Applicant Hunt Marcellus Operating Company LLC

Contact David Hulslander

Address 106 North Michael Street, Suite 3

City St. Mary's State PA Zip Code 15857

County Elk Township(s) Ridgway(s)

Receiving Stream(s) and Classification(s) UNT to Little
Mill Creek—HQ-CWF, Little Mill Creek—HQ

ESCGP-1 #ESX11-019-0068- Bricker A Well Pad

Applicant Rex Energy Operating Corporation

Contact Patrick McKinney

Address 476 Rolling Ridge Drive, Suite 300

City State College State PA Zip Code 16801

County Butler Township(s) Connoquenessing(s)

Receiving Stream(s) and Classification(s) UNT to Little
Connoquenessing Creek—CWF, Semiconon Run—CWF,
Little Connoquenessing Creek—CWF

ESCGP-1 #ESX11-065-0027—Gustafson Well Pad

Applicant EXCO Resources (PA) LLC

Contact Larry Sanders

Address 3000 Ericsson Drive, Suite 200

City Warrendale State PA Zip Code 15086

County Jefferson Township(s) Snyder and Washington(s)

Receiving Stream(s) and Classification(s) Rattlesnake
Run—CSF, Rattlesnake Creek—CWF, Curry Run—
CWF, Little Toby Creek—CWF, Clarion River—CWF

[Pa.B. Doc. No. 11-853. Filed for public inspection May 20, 2011, 9:00 a.m.]

Clean Air Interstate Rule; Proposed 2011 Allocation of Remaining 2010 Vintage NOx Allowances Set Aside to Offset SO₂ Emissions from Qualifying Units

The Department of Environmental Protection (Department) is providing notice and an opportunity for comment on the proposed allocation of the remaining 2010 vintage Clean Air Interstate Rule (CAIR) nitrogen oxides (NOx) allowances set aside for the owners or operators of qualifying fossil fuel-fired units that did not receive any sulfur dioxide (SO₂) allowances under the United States Environmental Protection Agency's (EPA) Acid Rain Program. The 30-day public comment period will end on June 20, 2011. These allocations are proposed to be made to CAIR SO₂ for the purpose of offsetting SO₂ emissions in accordance with 25 Pa. Code § 145.212(f)(2) and (5) (relating to CAIR NOx allowance allocations).

The Commonwealth's CAIR NOx Annual Trading Program budget contained 99,049 CAIR NOx allowances for 2010, of which 97,761 were allocated to CAIR units at 40 Pa.B. 297 (January 9, 2010). The remaining 1,288 CAIR NOx allowances, 1.3% of the CAIR NOx Annual Trading Program budget, were set aside for certain Independent Power Producers (IPP) that were exempted from many of the provisions of the Federal Acid Rain Program but were not exempted from the CAIR requirements. The additional CAIR NOx allowances will help offset the cost of complying with the SO₂ emission trading requirements of the CAIR rule. The Department received two requests for allocations of CAIR NOx allowances by the January 31,

2011, and finalized those 555 NOx allowance allocations at 41 Pa.B. 1580 (March 19, 2011), leaving 733 CAIR NOx allowances.

In accordance with 25 Pa. Code § 145.212(f)(5), the Department has considered written requests from the owners/operators of qualifying IPPs, received after January 31, 2011, for these remaining 733 vintage 2010 CAIR NOx allowances. On a prorated basis, the Department is proposing to allocate these allowances on a ratio of 1 CAIR NOx allowance to every 8 tons of SO₂ emitted by the unit in 2010, minus any excess CAIR NOx allowances already allocated to the unit for the 2010 control period that were not used to cover NOx emissions for the 2010 control period. The result is proposed allocation of an additional 535 CAIR NOx allowances.

The following table identifies the facilities from which the Department received requests after January 31, 2011. For several of the units, application of the previous formula renders their additional allowable allocation zero, as indicated as follows, due to the units' excess 2010 CAIR NOx allowances from the January 9, 2010, allocation. For every facility that submitted a request, the table lists the Facility name, ORIS number and Unit identification number, if applicable, and Number of CAIR NOx allowances proposed in this notice to be allocated.

<i>Facility name</i>	<i>ORIS #</i>	<i>Unit ID</i>	<i># of NOx allowances</i>
Ebensburg Power Company	10603		90
Gilberton Power Company	10113		0
Northeastern Power Company	50039		0
Piney Creek Power Plant	54144		180
Scrubgrass Generating Plant	50974	Unit 1 Unit 2	119 117
Wheelabrator-Frackville	50879		29
St. Nicholas Cogeneration	54634		0

Action at the Federal or State level could affect the allocated NOx allowances. CAIR NOx allowances do not constitute property rights.

Written Comments

Written comments on the proposed additional CAIR NOx allowance allocations should be sent to the attention of Randy Bordner, Environmental Group Manager, Air Resource Management Division, Bureau of Air Quality, DEP, P. O. Box 8468, Harrisburg, PA 17105-8468 or ranbordner@state.pa.us no later than June 20, 2011. Any written comments (including e-mails) should include the name, affiliation (if any), mailing address and telephone number of the interested person and contain "2010 vintage CAIR NOx allowances set aside to offset SO₂ emissions" in the subject line.

Questions concerning this notice should be directed to Randy Bordner at (717) 772-3921. TDD users may contact the Pennsylvania AT&T Relay Service at (800) 654-5984 to discuss how the Department can best accommodate their needs.

MICHAEL L. KRANCER,
Secretary

[Pa.B. Doc. No. 11-854. Filed for public inspection May 20, 2011, 9:00 a.m.]

DEPARTMENT OF GENERAL SERVICES

Proposed Plan for the Disposition of Commonwealth Property

The Department of General Services (Department), under The Administrative Code of 1929 (71 P. S. §§ 51—732), has published the proposed 2011 real property disposition plan for review by the public and approval of the General Assembly. The proposed plan is available for review on the Department's web site at ww.w.dgs.state.pa.us.

Individuals who wish to comment on the proposed plan should do so, in writing, to Bradley Swartz, Department of General Services, Bureau of Real Estate, 505 North Office Building, Harrisburg, PA, 17125, within 30 days from the date of this notice.

SHERI PHILLIPS,
Secretary

[Pa.B. Doc. No. 11-855. Filed for public inspection May 20, 2011, 9:00 a.m.]

DEPARTMENT OF HEALTH

Tobacco Use Prevention and Cessation Advisory Committee Public Meeting

The Tobacco Use Prevention and Cessation Advisory Committee of the Department of Health established under section 705 of the Tobacco Settlement Act (35 P. S. § 5701.705), will hold a public meeting on Wednesday, June 8, 2011, from 1 p.m. to 3:30 p.m., in Room 812, Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120. The purpose of the meeting is to discuss the tobacco use prevention and cessation priorities for the State Fiscal Year 2010-2011. No reservations are required to attend the meeting.

For additional information contact Judy Ochs, Director, Division of Tobacco Prevention and Control, Room 1032, Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120-0701.

For persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so, contact Judy Ochs or Brenda Reichert at (717) 783-6600, or V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

This meeting is subject to cancellation without notice.

ELI N. AVILA, MD, JD, MPH, FCLM,
Secretary

[Pa.B. Doc. No. 11-856. Filed for public inspection May 20, 2011, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania Ca\$h Up! Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Ca\$h Up!.

2. *Price:* The price of a Pennsylvania Ca\$h Up! instant lottery game ticket is \$3.

3. *Play Symbols:* Each Pennsylvania Ca\$h Up! instant lottery game ticket will contain nine play areas designated as "Game 1," "Game 2," "Game 3," "Game 4," "Game 5," "Game 6," "Game 7," "Game 8" and "Game 9." There are 80 play symbols, one of which will be located in "Game 1," "Game 4" and "Game 7," two of which will be located in "Game 2," "Game 5," and "Game 8," and three of which will be located in "Game 3," "Game 6," and "Game 9." Each Pennsylvania Ca\$h Up! instant lottery game ticket will also contain a "YOUR NUMBERS" area. The "YOUR NUMBERS" area will consist of 30 play symbols. The play symbols that may be located in the nine play areas and the "YOUR NUMBERS" area are the numbers 01 through 80.

4. *Prize Symbols:* The prize symbols and their captions located in the "Prize" area of "Game 1," "Game 4" and "Game 7" are: \$3⁰⁰ (THR DOL), \$5⁰⁰ (FIV DOL), \$6⁰⁰ (SIX DOL), \$9⁰⁰ (NIN DOL), \$10⁰⁰ (TEN DOL), \$20⁰⁰ (TWENTY), \$30⁰⁰ (THIRTY), \$50⁰⁰ (FIFTY), \$90⁰⁰ (NINTY), \$100 (ONE HUN), \$150 (ONEHUNFTY), \$300 (THR HUN), \$1,000 (ONE THO), \$10,000 (TEN THO), \$20,000 (TWY THO) and \$30,000 (TRY THO). The prize symbols and their captions located in the "Prize" area of "Game 2," "Game 5," and "Game 8" are: \$3⁰⁰ (THR DOL), \$5⁰⁰ (FIV DOL), \$6⁰⁰ (SIX DOL), \$9⁰⁰ (NIN DOL), \$10⁰⁰ (TEN DOL), \$20⁰⁰ (TWENTY), \$30⁰⁰ (THIRTY), \$50⁰⁰ (FIFTY) and \$150 (ONEHUNFTY). The prize symbols and their captions located in the "Prize" area of "Game 3," "Game 6," and "Game 9" are: \$3⁰⁰ (THR DOL), \$5⁰⁰ (FIV DOL), \$6⁰⁰ (SIX DOL), \$9⁰⁰ (NIN DOL), \$10⁰⁰ (TEN DOL), \$20⁰⁰ (TWENTY) and \$300 (THR HUN).

5. *Prizes:* The prizes that can be won in this game are: \$3, \$5, \$6, \$9, \$10, \$20, \$30, \$50, \$90, \$100, \$150, \$300, \$1,000, \$10,000, \$20,000 and \$30,000. A player can win up to 9 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 6,000,000 tickets will be printed for the Pennsylvania Ca\$h Up! instant lottery game.

7. Determination of Prize Winners:

(a) Holders of tickets upon which one of the "YOUR NUMBERS" play symbols match the same exact one play symbol, in "Game 1," "Game 4" or "Game 7," and a prize symbol of \$30,000 (TRY THO) appears in the "Prize" area for that "Game," on a single ticket, shall be entitled to a prize of \$30,000.

(x) Holders of tickets upon which two of the "YOUR NUMBERS" play symbols match the same exact two play symbols, in "Game 2," "Game 5" or "Game 8," and a prize symbol of \$6⁰⁰ (SIX DOL) appears in the "Prize" area for that "Game," on a single ticket, shall be entitled to a prize of \$12.

(y) Holders of tickets upon which one of the "YOUR NUMBERS" play symbols match the same exact one play symbol, in "Game 1," "Game 4" or "Game 7," and a prize symbol of \$10⁰⁰ (TEN DOL) appears in the "Prize" area for that "Game," on a single ticket, shall be entitled to a prize of \$10.

(z) Holders of tickets upon which two of the "YOUR NUMBERS" play symbols match the same exact two play symbols, in "Game 2," "Game 5" or "Game 8," and a prize symbol of \$5⁰⁰ (FIV DOL) appears in the "Prize" area for that "Game," on a single ticket, shall be entitled to a prize of \$10.

(aa) Holders of tickets upon which one of the "YOUR NUMBERS" play symbols match the same exact one play symbol, in "Game 1," "Game 4" or "Game 7," and a prize symbol of \$9⁰⁰ (NIN DOL) appears in the "Prize" area for that "Game," on a single ticket, shall be entitled to a prize of \$9.

(bb) Holders of tickets upon which three of the "YOUR NUMBERS" play symbols match the same exact three play symbols, in "Game 3," "Game 6" or "Game 9," and a prize symbol of \$3⁰⁰ (THR DOL) appears in the "Prize" area for that "Game," on a single ticket, shall be entitled to a prize of \$9.

(cc) Holders of tickets upon which one of the "YOUR NUMBERS" play symbols match the same exact one play symbol, in "Game 1," "Game 4" or "Game 7," and a prize symbol of \$6⁰⁰ (SIX DOL) appears in the "Prize" area for that "Game," on a single ticket, shall be entitled to a prize of \$6.

(dd) Holders of tickets upon which two of the "YOUR NUMBERS" play symbols match the same exact two play symbols, in "Game 2," "Game 5" or "Game 8," and a prize symbol of \$3⁰⁰ (THR DOL) appears in the "Prize" area for that "Game," on a single ticket, shall be entitled to a prize of \$6.

(ee) Holders of tickets upon which one of the "YOUR NUMBERS" play symbols match the same exact one play symbol, in "Game 1," "Game 4" or "Game 7," and a prize symbol of \$5⁰⁰ (FIV DOL) appears in the "Prize" area for that "Game," on a single ticket, shall be entitled to a prize of \$5.

(ff) Holders of tickets upon which one of the "YOUR NUMBERS" play symbols match the same exact one play symbol, in "Game 1," "Game 4" or "Game 7," and a prize symbol of \$3⁰⁰ (THR DOL) appears in the "Prize" area for that "Game," on a single ticket, shall be entitled to a prize of \$3.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

<i>Scratch Only The Numbers On Games 1-9 That Match Those Revealed In The Your Numbers Area. Win With Prize(s) Of:</i>			<i>Approximate Odds Are</i>			<i>Approximate No. Of Winners Per 6,000,000 Tickets:</i>
<i>Games 1, 4, 7</i>	<i>Games 2, 5, 8</i>	<i>Games 3, 6, 9</i>	<i>Win:</i>	<i>1 In:</i>		
\$3			\$3	9.09		660,000
\$5			\$5	23.81		252,000
	\$3		\$6	50		120,000
\$6			\$6	100		60,000
		\$3	\$9	250		24,000
\$3	\$3		\$9	250		24,000
\$6 + \$3			\$9	250		24,000
\$3 x 3			\$9	250		24,000
\$9			\$9	250		24,000
	\$5		\$10	166.67		36,000
\$5 x 2			\$10	250		24,000
\$10			\$10	250		24,000
\$5		\$5	\$20	250		24,000
	\$5 x 2		\$20	500		12,000
	\$10		\$20	500		12,000
\$20			\$20	1,000		6,000
\$5	\$5	\$5	\$30	1,000		6,000
	\$5 x 3		\$30	1,000		6,000
	\$6	\$10	\$30	1,000		6,000
\$30		\$6	\$30	1,000		6,000
\$10	\$3 + \$5	\$3 + \$5	\$30	1,000		6,000
\$10 x 2	\$3	\$3 + \$5	\$50	2,182		2,750
	\$10	\$10	\$50	2,000		3,000
\$30 + \$20			\$50	2,400		2,500
\$50			\$50	2,400		2,500
\$5 x 3	\$5 x 3	\$5 x 3	\$50	2,000		3,000
\$9	\$9 x 3	\$9	\$90	4,000		1,500
		\$10 x 3	\$90	6,000		1,000
\$10 + \$5	\$10 + \$5	\$10 + \$5	\$90	4,800		1,250
\$6 x 3	\$9	\$6 x 3	\$90	4,000		1,500
			\$90	4,000		1,500

Scratch Only The Numbers On Games 1-9 That Match Those Revealed In The Your Numbers Area. Win With Prize(s) Of:

<i>Games 1, 4, 7</i>	<i>Games 2, 5, 8</i>	<i>Games 3, 6, 9</i>
\$30 × 3		
\$90		
	\$10 × 3	\$10 × 3
\$50 × 3		
\$10 × 3	\$5 × 3	\$10 × 3
\$10 × 3	\$20 × 3	
\$150		
\$30 × 3	\$30	
\$50	\$50	
	\$20 × 3	\$20 × 3
\$100 × 3		
	\$50 × 3	
\$30 × 3	\$20 × 3	\$10 × 3
	\$150	
\$300		
\$50 × 2	\$150 × 3	
	\$50	\$300
\$1,000		
\$10,000		
\$20,000		
\$30,000		

Games 1, 4, 7 = Win the prize shown for that game.

Games 2, 5, 8 = Win double the prize shown for that game.

Games 3, 6, 9 = Win triple the prize shown for that game.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Ca\$h Up! instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentive).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Ca\$h Up!, prize money from winning Pennsylvania Ca\$h Up! instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Ca\$h Up! instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), the regulations contained in 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Ca\$h Up! or through normal communications methods.

DANIEL MEUSER,
Secretary

[Pa.B. Doc. No. 11-857. Filed for public inspection May 20, 2011, 9:00 a.m.]

<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 6,000,000 Tickets:</i>
\$90	6,000	1,000
\$90	4,000	1,500
\$150	10,000	600
\$150	24,000	250
\$150	10,000	600
\$150	12,000	500
\$150	15,000	400
\$150	12,000	500
\$150	24,000	250
\$300	20,000	300
\$300	30,000	200
\$300	40,000	150
\$300	17,143	350
\$300	24,000	250
\$300	24,000	250
\$1,000	30,000	200
\$1,000	30,000	200
\$1,000	30,000	200
\$10,000	1,200,000	5
\$20,000	1,200,000	5
\$30,000	600,000	10

Pennsylvania Dice Doubler Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Dice Doubler.

2. *Price:* The price of a Pennsylvania Dice Doubler instant lottery game ticket is \$1.

3. *Play Symbols:* Each Pennsylvania Dice Doubler instant lottery game ticket will contain one play area consisting of "ROLL 1," "ROLL 2," "ROLL 3," "ROLL 4" and "ROLL 5." Each "ROLL" is played separately. The play symbols and their captions located in each "ROLL" are: 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVEN), 12 (TWELVE) and a Double Dice (DBLDICE) symbol.

4. *Prize Symbols:* The prize symbols and their captions located in the "prize" area of each "ROLL" are: FREE (TICKET), \$1⁰⁰ (ONE DOL), \$2⁰⁰ (TWO DOL), \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$20⁰⁰ (TWENTY), \$40⁰⁰ (FORTY), \$50⁰⁰ (FIFTY), \$100 (ONE HUN), \$500 (FIV HUN) and \$2,000 (TWO THO).

5. *Prizes:* The prizes that can be won in this game are: Free \$1 Ticket, \$1, \$2, \$5, \$10, \$20, \$40, \$50, \$100, \$500 and \$2,000. The player can win up to 5 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:*

Approximately 12,000,000 tickets will be printed for the Pennsylvania Dice Doubler instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets with a play symbol of 7 (SEVEN) or 11 (ELEVEN) in any "ROLL," and a prize symbol of \$2,000 (TWO THO) appears in the "prize" area for that "ROLL," on a single ticket, shall be entitled to a prize of \$2,000.

(b) Holders of tickets with a play symbol of 7 (SEVEN) or 11 (ELEVEN) in any "ROLL," and a prize symbol of \$500 (FIV HUN) appears in the "prize" area for that "ROLL," on a single ticket, shall be entitled to a prize of \$500.

(c) Holders of tickets with a Double Dice (DBLDICE) symbol in any "ROLL," and a prize symbol of \$100 (ONE HUN) appears in the "prize" area for that "ROLL," on a single ticket, shall be entitled to a prize of \$200.

(d) Holders of tickets with a play symbol of 7 (SEVEN) or 11 (ELEVEN) in any "ROLL," and a prize symbol of \$100 (ONE HUN) appears in the "prize" area for that "ROLL," on a single ticket, shall be entitled to a prize of \$100.

(e) Holders of tickets with a Double Dice (DBLDICE) symbol in any "ROLL," and a prize symbol of \$50⁰⁰ (FIFTY) appears in the "prize" area for that "ROLL," on a single ticket, shall be entitled to a prize of \$100.

(f) Holders of tickets with a play symbol of 7 (SEVEN) or 11 (ELEVEN) in any "ROLL," and a prize symbol of \$40⁰⁰ (FORTY) appears in the "prize" area for that "ROLL," on a single ticket, shall be entitled to a prize of \$40.

(g) Holders of tickets with a Double Dice (DBLDICE) symbol in any "ROLL," and a prize symbol of \$20⁰⁰ (TWENTY) appears in the "prize" area for that "ROLL," on a single ticket, shall be entitled to a prize of \$40.

(h) Holders of tickets with a play symbol of 7 (SEVEN) or 11 (ELEVEN) in any "ROLL," and a prize symbol of \$20⁰⁰ (TWENTY) appears in the "prize" area for that "ROLL," on a single ticket, shall be entitled to a prize of \$20.

(i) Holders of tickets with a Double Dice (DBLDICE) symbol in any "ROLL," and a prize symbol of \$10⁰⁰ (TEN DOL) appears in the "prize" area for that "ROLL," shall be entitled to a prize of \$20.

(j) Holders of tickets with a play symbol of 7 (SEVEN) or 11 (ELEVEN) in any "ROLL," and a prize symbol of \$10⁰⁰ (TEN DOL) appears in the "prize" area for that "ROLL," on a single ticket, shall be entitled to a prize of \$10.

(k) Holders of tickets with a Double Dice (DBLDICE) symbol in any "ROLL," and a prize symbol of \$5⁰⁰ (FIV DOL) appears in the "prize" area for that "ROLL," shall be entitled to a prize of \$10.

(l) Holders of tickets with a play symbol of 7 (SEVEN) or 11 (ELEVEN) in any "ROLL," and a prize symbol of \$5⁰⁰ (FIV DOL) appears in the "prize" area for that "ROLL," on a single ticket, shall be entitled to a prize of \$5.

(m) Holders of tickets with a play symbol of 7 (SEVEN) or 11 (ELEVEN) in any "ROLL," and a prize symbol of \$2⁰⁰ (TWO DOL) appears in the "prize" area for that "ROLL," on a single ticket, shall be entitled to a prize of \$2.

(n) Holders of tickets with a Double Dice (DBLDICE) symbol in any "ROLL," and a prize symbol of \$1⁰⁰ (ONE DOL) appears in the "prize" area for that "ROLL," on a single ticket, shall be entitled to a prize of \$2.

(o) Holders of tickets with a play symbol of 7 (SEVEN) or 11 (ELEVEN) in any "ROLL," and a prize symbol of \$1⁰⁰ (ONE DOL) appears in the "prize" area for that "ROLL," on a single ticket, shall be entitled to a prize of \$1.

(p) Holders of tickets with a play symbol of 7 (SEVEN) or 11 (ELEVEN) in any "ROLL," and a prize symbol of FREE (TICKET) appears in the "prize" area for that "ROLL," on a single ticket, shall be entitled to a prize of one Pennsylvania Dice Doubler instant game ticket or one Pennsylvania Lottery instant game ticket with a \$1 sale price which is currently on sale.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

<i>Reveal A 7 or 11 In Any Roll, Win Prize Shown For That Roll. Win With Prize(s) Of:</i>		<i>Approximate Odds Are 1 In:</i>		<i>Approximate No. Of Winners Per 12,000,000 Tickets</i>
	<i>Win:</i>			
FREE	FREE \$1 TICKET	10.71		1,120,000
\$1	\$1	150		80,000
\$1 w/DOUBLE DICE	\$2	28.57		420,000
\$1 × 2	\$2	120		100,000
\$2	\$2	50		240,000
\$1 × 5	\$5	75		160,000
\$5	\$5	75		160,000
\$2 × 5	\$10	600		20,000
\$5 w/DOUBLE DICE	\$10	250		48,000
\$5 × 2	\$10	1,000		12,000
\$10	\$10	300		40,000
\$5 × 4	\$20	1,500		8,000
\$10 × 2	\$20	3,000		4,000
\$10 w/DOUBLE DICE	\$20	750		16,000
\$20	\$20	1,000		12,000
\$10 × 4	\$40	8,000		1,500
\$20 × 2	\$40	12,000		1,000
\$20 w/DOUBLE DICE	\$40	4,800		2,500
(\$5 w/DOUBLE DICE) × 4	\$40	4,800		2,500
\$40	\$40	8,000		1,500

Reveal A 7 or 11 In Any Roll, Win
Prize Shown For That Roll. Win With
Prize(s) Of:

	Win:	Approximate Odds Are 1 In:	Approximate No. Of Winners Per 12,000,000 Tickets
\$20 × 5	\$100	20,000	600
(\$40 × 2) + (\$10 × 2)	\$100	20,000	600
\$50 w/DOUBLE DICE	\$100	12,000	1,000
(\$10 w/DOUBLE DICE) × 5	\$100	12,000	1,000
\$100	\$100	20,000	600
\$100 × 5	\$500	240,000	50
(\$100 w/DOUBLE DICE) + (\$100 × 3)	\$500	120,000	100
(\$50 w/DOUBLE DICE) × 5	\$500	120,000	100
\$500	\$500	120,000	100
\$500 × 4	\$2,000	120,000	100
\$2,000	\$2,000	120,000	100

Reveal a "DOUBLE DICE" (DBLDICE) symbol, win double the prize shown for that roll automatically.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Dice Doubler instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentive).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Dice Doubler, prize money from winning Pennsylvania Dice Doubler instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Dice Doubler instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), the regulations contained in 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Dice Doubler or through normal communications methods.

DANIEL MEUSER,
Secretary

[Pa.B. Doc. No. 11-858. Filed for public inspection May 20, 2011, 9:00 a.m.]

ENVIRONMENTAL HEARING BOARD

Mount Union Municipal Authority v. DEP; EHB
Doc. No. 2011-068-L

The Mount Union Municipal Authority has appealed the issuance by the Department of Environmental Protection of an NPDES Permit to Mount Union Borough Municipal Authority for a facility in the Borough of Mount Union, Huntingdon County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, and may be reviewed by any interested party on request during normal business hours. If information concerning this notice is required in an alternative form contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the Pennsylvania AT&T Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

THOMAS W. RENWAND,
Chairperson

[Pa.B. Doc. No. 11-859. Filed for public inspection May 20, 2011, 9:00 a.m.]

HEALTH CARE COST CONTAINMENT COUNCIL

Request for Proposal for Financial Audit Services

The Health Care Cost Containment Council (Council), an independent State agency that collects, analyzes and disseminates health care cost and quality-related information, seeks to obtain financial audit services. Interested parties may access the Request for Proposal at www.phc4.org beginning May 20, 2011, or by contacting Renee Greenawalt at (717) 232-6787 or rgreenawalt@phc4.org. Proposals are due to the Council office no later than 5 p.m. on June 22, 2011. The Council will make the award at the public Council meeting on July 7, 2011, at 10 a.m. at the Council office.

JOE MARTIN,
Executive Director

[Pa.B. Doc. No. 11-860. Filed for public inspection May 20, 2011, 9:00 a.m.]

HISTORICAL AND MUSEUM COMMISSION

National Register Nominations to be Reviewed by the Historic Preservation Board

The Historic Preservation Board (Board) will hold a meeting on June 7, 2011, at 9:45 a.m., at the Labor and Industry Building, Harrisburg, PA. For individuals with a disability who wish to attend this meeting, and require an auxiliary aid, service or other accommodation to participate, contact Cheri Garrett at (717) 783-9933 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Board can accommodate their needs. For persons who have any questions or comments, contact the National Register Office of the Bureau for Historic Preservation at (717) 783-8947.

National Register nominations reviewed at the Board meeting:

1. Scranton Chamber of Commerce, 626 Mulberry Street, Scranton, Lackawanna County, No. 029272
2. Tasty Baking Company, 2801 West Hunting Park, Avenue, Philadelphia, No. 156265

3. PWB RR Station, 1001 South 15th Street, Philadelphia, No. 052153

4. Schrot Farm, 880 Carbon Mine Road, Lawrence Township, Clearfield County, No. 140688

5. Steelton High School, 100 South 4th Street, Steelton, Dauphin County, No. 144505

6. St Paul AME Church, 703 Merchant Street, Coatesville, Chester County, No. 118748

7. Atkinson Hospital, 822-824 East Chestnut Street, Coatesville, Chester County, No. 156244

8. Conrad Alleman House, 1412 Farmhouse Lane, Lower Swatara Township, Dauphin County, No. 144154

9. Pleasant Grove School, 4084 Baltimore Pike, Mount Joy Twp, Adams County, No. 006841

10. Senator Joseph Clark House, 247 First Avenue, Glen Campbell, Indiana County, No. 140790

BARBARA FRANCO,
Executive Director

[Pa.B. Doc. No. 11-861. Filed for public inspection May 20, 2011, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P.S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P.S. § 645.5b).

The Commission has issued comments on the following proposed regulation. The agencies must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within two years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
16A-5423	State Board of Pharmacy Cancer Drug Repository Program 41 Pa.B. 1337 (March 12, 2011)	4/11/11	5/11/11

State Board of Pharmacy Regulation #16A-5423 (IRRC #2889) Cancer Drug Repository Program May 11, 2011

We submit for your consideration the following comments on the proposed rulemaking published in the March 12, 2011 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the State Board of Pharmacy (Board) to respond to all comments received from us or any other source.

1. Implementation Procedures.

Act 14 of 2008, known and cited as the Cancer Drug Repository Program Act (62 P.S. §§ 2921—2927) (Act) created the Cancer Drug Repository Program (Program). Section 3 of the Act (62 P.S. § 2923) requires the Board to establish a Program, “through which unused cancer drugs may be dispensed to cancer patients by pharmacies

approved by the board for the purpose of dispensing unused cancer drugs to residents who are indigent.” As directed by Section 7 of the Act (62 P.S. § 2927), the Board is promulgating regulations to carry out the purposes of the Act.

In order for the citizens of this Commonwealth to take advantage of the Program, they must be aware of it. How will the Board make the availability of this Program known to the citizens of this Commonwealth? Has the Board considered listing the pharmacies that participate in the Program on its website?

2. Economic or fiscal impact of the regulation.

The Regulatory Analysis Form submitted with this proposed rulemaking states that there will be no costs or savings to the regulated community, local government or state government. The Pennsylvania Pharmacists Association disagrees with this statement and contends that the costs to pharmacies will be significant and the result will be few pharmacies participating in the Program. Included in those costs would be additional manpower,

storage facilities, paperwork and the possible need for additional liability insurance. We ask the Board to quantify the actual costs a pharmacy that seeks to participate in the Program would incur.

In addition, we ask the Board to quantify the potential savings a cancer patient that meets all of the criteria of this regulation could realize by obtaining his or her cancer medication through the Program.

3. Section 27.502. Definitions.—Clarity.

We have several questions concerning the definition of “original sealed and tamper-evident unit dose packaging.” The definition implies that injectable, topical and aerosol medication would be considered oral medications. How do these medications qualify as oral medications? Are these types of medicines available as single unit doses? The final-form regulation should be clarified to address these questions.

4. Section 27.503. Participation in the Cancer Drug Repository Program.—Consistency with intent of the General Assembly; Clarity.

We have four concerns with this section. First, Section 7(3) of the Act (62 P. S. § 2927(3)) requires the Board to promulgate regulations that shall include, “Necessary forms for administration of the program, including forms for use by entities permitted to accept, distribute or dispense cancer drugs under the program.” The Board has submitted copies of five forms that will be used to administer the Program with this regulatory package. The title of each form is listed below:

- Application for Prescription Drug Repository;
- Prescription Drug Repository Program Donor Form;
- Cancer Drug Repository Program Donation, Transfer and Destruction Record;
- Cancer Drug Repository Program Recipient Record; and
- Cancer Drug Repository Program Notice of Participation or Withdrawal.

While not a part of the actual regulation, we recommend that the titles for the first two forms be amended by deleting the term “prescription drug” and replacing it with “cancer drug.” This would ensure consistency with Section 7(3) of the Act. We also suggest that all of the forms be reviewed to ensure consistency with this underlying principle of the Act.

Second, Subsection (c) establishes eligibility requirements for pharmacies that want to participate in the Program. Subsection (c)(2) includes a reference to donated “prescription drugs or medical supplies.” To be consistent with the intent of the Act, we recommend that the reference to “prescription drugs” be replaced with “cancer drugs.”

Third, Subsection (d) pertains to donations of cancer drugs and supplies. This subsection of the regulation is the only subsection that makes reference to “supplies.” To be consistent with the Act and the rest of the regulation, we recommend that the term “supplies” be deleted.

Fourth, Subsection (d)(1) would allow “an individual who is 18 years old or older or a pharmacy, medical facility, drug manufacturer or wholesale drug distributor” to donate cancer drugs to the Program. Section 4 of the Act (62 P. S. § 2924) states that entities that are part of a “closed drug delivery system” may return unused cancer drugs to pharmacies participating in the Program. We note that a “closed drug delivery system” is defined by

Section of the Act (62 P. S. § 2922) as, “A system in which the actual control of a unit dose of medication is maintained by a health care facility, health clinic, hospital, pharmacy or physician’s office rather than an individual.” We ask the Board to explain its statutory authority for allowing any person or entity that does not fall under the definition of a “closed drug delivery system” to donate cancer drugs to the Program. We also ask the Board to ensure that the final-form regulation and any forms developed for the administration of the Program reflect the intent of the Act by ensuring that donated cancer drugs come from a closed drug delivery system.

5. Section 27.504. Drugs.—Possible conflict with or duplication of statutes or existing regulations; Clarity.

Subsection (a) pertains to cancer drugs that may be accepted by a pharmacy participating in the Program. We have two concerns. First, Subsection (a)(1) includes the phrase “original *unopened*, sealed and tamper-evident unit dose packaging.” (Emphasis added.) We question why the term “unopened” was included in this phrase. We note that Section 27.502, pertaining to definitions, defines the term “original sealed and tamper-evident unit dose packaging.”

Second, Subsection (a)(2) would allow the donation of cancer drugs in single unit doses, “when the outside packaging is opened but the single-unit-dose packaging is unopened.” We ask the Board to explain how this provision comports with Section 5(a)(9)(xi) of the Pharmacy Act (63 P. S. § 390-5(a)(9)(xi)), which identifies the following action as “grossly unprofessional conduct of a pharmacist”:

The acceptance back and redistribution of any unused drug, or a part thereof, after it has left the premises of any pharmacy, whether issued by a mistake or otherwise, unless it is in the *original sealed container* with the name, lot number and expiration date on the original intact manufacturer’s label. (Emphasis added.)

6. Section 27.505. Repositories.—Consistency with intent of the General Assembly; Clarity.

This section pertains to the distribution, destruction and disposition of cancer drugs donated to the Program. We have two concerns. First, Subsection (b) states, in part, the following: “The cancer drugs shall only be dispensed by a licensed pharmacist according to State law pursuant to a prescription issued by a prescribing practitioner.” This language comes directly from Section 5 of the Act (62 P. S. § 2925). However, Section 5 also includes the following language: “The cancer drugs may be distributed to another participating physician’s office, pharmacy, hospital or health clinic for dispensing by a pharmacy as allowed by Federal or State law.” We are concerned that the additional statutory language is not included in the regulation. We suggest that the final-form regulation include language that reflects the other method of distributing cancer drugs.

Second, as noted by PPA, Subsection (f)(3)(vii) includes the phrase, “if applicable.” What is the need for this phrase? We recommend that it be deleted.

7. Section 27.506. Patient eligibility.—Implementation procedures; clarity.

Subsection (a) establishes three criteria for eligibility for the Program. The criteria are: the patient is diagnosed with cancer; the patient does not possess or has limited prescription drug coverage related to the treatment of the

patient's cancer so that the coverage limits prevent the patient from obtaining cancer drugs; the patient does not meet the eligibility requirements under the State Medical Assistance Program that provides prescription drug coverage related to the treatment of cancer. Several commentators have asked what type of proof would be necessary to satisfy these criteria. We recommend that the final-form regulation include the type of documentation that would be acceptable to meet the criteria set forth in Subsection (a).

Subsection (b) establishes the criteria for financial eligibility for the Program. Under Subsection (b)(2), the income limits for eligibility for the Program are based upon family income not to exceed 350% of the current Department of Health and Human Services Federal Poverty Income Guidelines. The current income limits for eligibility for the Program are in Appendix A of the regulation and any revisions to the income limits will be published as a notice in the *Pennsylvania Bulletin*. Has the Board considered publishing the income guidelines on an annual basis instead of only when the guidelines change? We believe this approach would make it easier for the regulated community to locate what the income guidelines are. An alternative to this approach would be listing the income guidelines on the Board's website.

SILVAN B. LUTKEWITTE, III,
Chairperson

[Pa.B. Doc. No. 11-862. Filed for public inspection May 20, 2011, 9:00 a.m.]

INSURANCE DEPARTMENT

Pennsylvania Professional Liability Joint Underwriting; Rate Filing

On May 2, 2011, the Insurance Department (Department) received from the Pennsylvania Professional Liability Joint Underwriting Association a filing to decrease rates overall by 3.3% for institutional and noninstitutional health care providers. This overall figure represents an average; the effect of this filing on the rates for individual insureds may vary.

The filing includes the following revisions:

- Changes to 20 class relativities.
- Changes to five territory relativities.
- Movement of five counties from one territory to another.

Unless formal administrative action is taken prior to July 1, 2011, the rates within the subject filing may be deemed into use upon the effective date, January 1, 2012, by operation of law.

A copy of the filing is available on the Department's web site at www.insurance.pa.gov. To access the filing, under "How to Find..." click on "View Current Rate Filings."

Interested parties are invited to submit written comments, suggestions or objections to Eric Zhou, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, gzhou@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

MICHAEL F. CONSEDINE,
Insurance Commissioner

[Pa.B. Doc. No. 11-863. Filed for public inspection May 20, 2011, 9:00 a.m.]

JOINT COMMITTEE ON DOCUMENTS

Free Subscriptions to Commonwealth Entities

The Joint Committee on Documents has determined that, due to budgetary constraints, the Legislative Reference Bureau will no longer be providing free subscriptions of the *Pennsylvania Code* and *Pennsylvania Bulletin* to Commonwealth entities. Subscription labels for Commonwealth entities include the code "NS" following the 6-digit customer number above the customer name.

The last free paper subscription of the *Bulletin* will be June 25, 2011. The last free Code supplement will be June 2011. This change will take effect on July 1, 2011.

Commonwealth entities may continue paper subscriptions by mailing the following form to Fry Communications, Inc., Attn: *Pennsylvania Bulletin*, 800 West Church Road, Mechanicsburg, PA 17055-3198. The subscription rate is \$82 per year. Checks for subscriptions should be made payable to "Fry Communications, Inc." Persons with subscription questions should call (717) 766-0211, Ext. 2340, or (800) 334-1429, Ext. 2340.

Access to the *Code* and *Bulletin* web sites will remain free. The *Bulletin* is updated each Friday morning and can be accessed at www.pabulletin.com. The *Code* is updated at the beginning of each month and can be accessed at www.pacode.com.

Questions may be directed to code&bulletin@palrb.us. Please include "subscription" in the subject line.

MARY JANE PHELPS,
Secretary

Pennsylvania Bulletin Subscription

Mail this form with payment for \$82 for a 1-year subscription to:

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City, State and Zip Code

[Pa.B. Doc. No. 11-864. Filed for public inspection May 20, 2011, 9:00 a.m.]

LEGISLATIVE REFERENCE BUREAU

Documents Filed But Not Published

The Legislative Reference Bureau (Bureau) accepted the following documents during the preceding calendar month for filing without publication under 1 Pa. Code § 3.13(b) (relating to contents of *Bulletin*). The Bureau will continue to publish on a monthly basis either a summary table identifying the documents accepted during the preceding calendar month under this subsection or a statement that no documents have been received. For questions concerning or copies of documents filed, but not published, call (717) 783-1530.

Executive Board

Resolution No. CB-11-001, Dated March 15, 2011. Authorizes the side letter with UFCW to reflect the addition of the new class title of Retail Wine Specialist effective immediately.

Governor's Office

Administrative Circular No. 11-06—Closing Instruction No. 2, Fiscal Year 2010-11; Pre-closing at May 13, 2011, Dated April 6, 2011.

Administrative Circular No. 11-07—Closing Instruction No. 3, Fiscal Year 2010-11; Prior Fiscal Year Appropriations Subject to Act 146 Waivers and Encumbrances Carried Forward From Prior Fiscal Years (Including Contracted Repairs), Dated April 6, 2011.

MARY JANE PHELPS,
Director
Pennsylvania Code and Bulletin

[Pa.B. Doc. No. 11-865. Filed for public inspection May 20, 2011, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

Allegheny County, Wine & Spirits Store #9207 (Relocation), Wexford, PA

Lease expiration date: Entered in 90-day status since April 1, 2011.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 9,000 net useable square feet of new or existing retail commercial space within a shopping center environment with free parking and rear door loading near the intersection of Routes 19 and 910 in Wexford, PA.

Proposals due: June 10, 2011, at 12 p.m.

Department: Liquor Control Board
Location: 158 Purity Road, Suite B, Pittsburgh, PA 15235-4441
Contact: George D. Danis (412) 723-0124

Berks County, Wine & Spirits Store #0619 (Relocation), Reading, PA

Lease expiration date: January 31, 2013

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 7,000 net useable square feet of new or existing retail commercial space in the area of North Reading, North Fifth Street corridor, Muhlenberg Township, Reading, PA.

Proposals due: June 10, 2011, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Region #2 RM. 314, Northwest Office Building, Forster and Capital Streets, Harrisburg, PA 17124-0001
Contact: Ronald Hancher, Jr. (717) 787-9540

Bucks County, Wine & Spirits Store #0909 (Relocation), Newtown, PA

Lease expiration date: June 30, 2009

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 12,000 net useable square feet of new or existing retail commercial space in a 1 mile radius of the intersection of Routes 332 and 532, Buck Road, Newtown Township, Newtown, PA.

Proposals due: July 17, 2009, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: Robert Jolly (215) 482-9670

Chester County, Wine & Spirits Store #1504 (Relocation), West Chester, PA

Lease expiration date: September 30, 2015.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 8,000 net useable square feet of new or existing retail commercial space within the area of Routes 322 and 162, East Bradford Township, West Chester, PA.

Proposals Due: June 10, 2011, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Region #1, 7114 Ridge Avenue, Philadelphia, PA 19128-3250
Contact: James M. Bradley (215) 482-9671

Chester County, Wine & Spirits Store #1505 (Relocation), Paoli, PA

Lease expiration date: August 31, 2012

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 9,000 to 9,500 net useable square feet of new or existing retail commercial space within the area of Routes 30 and 252, Paoli, PA.

Proposals Due: June 10, 2011, at 12 p.m.

Department: Liquor Control Board
Location: 7114 Ridge Avenue, Philadelphia, PA 19128-3250
Contact: James M. Bradley (215) 482-9671

Chester County, Wine & Spirits Store #1507 (Relocation), Kennett Square, PA

Lease expiration date: November 30, 2013

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,000 to 5,000 net useable square feet

of new or existing retail commercial space within a 5-mile radius of Route 1 and Bayard Road in the Kennett Square, PA area.

Proposals due: June 10, 2011, at 12 p.m.

Department: Liquor Control Board
Location: 7114 Ridge Avenue, Philadelphia, PA 19128-3250
Contact: James M. Bradley (215) 482-9671

Clinton County, Wine & Spirits Store #1802 (Relocation), Renovo, PA

Lease expiration date: Entered into 90-day status since June 1, 2009.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 1,200 to 1,500 plus net useable square feet of new or existing retail commercial space in the Borough of Renovo or adjacent municipality, Renovo, PA, Clinton County.

Proposals due: June 10, 2011, at 12 p.m.

Department: Liquor Control Board
Location: Room 314, Northwest Office Building, Forster and Capital Streets, Harrisburg, PA 17124-0001
Contact: Ronald Hancher, Jr. (717) 787-9540

Fayette County, Wine & Spirits Store #2611 (Relocation), Uniontown, PA

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,000 to 4,000 net useable square feet of new or existing retail commercial space. Location must be within a 0.75-mile radius from the intersection of Morgantown and Walnut Hill Roads in Uniontown, PA. Offers must have free off street parking and permit trailer truck deliveries. A shopping center environment is preferred.

Proposals due: June 10, 2011, at 12 p.m.

Department: Liquor Control Board
Location: 158 Purity Road, Suite B Pittsburgh, PA 15235-4441
Contact: Bruce Van Dyke (412) 723-0124

Lehigh County, Wine & Spirits Store #3909 (Relocation), Allentown, PA

Lease expiration date: Entered 90-day status since May 1, 2011.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 7,500 to 9,000 net useable square feet of new or existing retail commercial space within the surrounding area of Union Bled/Eaton Road, Allentown, PA.

Proposals due: June 10, 2011, at 12 p.m.

Department: Liquor Control Board
Location: Liquor Control Board, Room 314, Northwest Office Building, Forster and Capital Streets, Harrisburg, PA 17124-0001
Contact: Ronald Hancher, Jr. (717) 787-9540

Montgomery County, Wine & Spirits Store #4616 (Relocation), Schwenksville, PA

Lease expiration date: Entered 90-day status since May 1, 2009.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 5,000 net useable square feet of new or existing retail commercial space approximately within a 1-mile radius of Main Street and Perkiomen Avenue, Schwenksville, PA.

Proposals due: June 10, 2011, at 12 p.m.

Department: Liquor Control Board
Location: 7114 Ridge Avenue, Philadelphia, PA 19128-3250
Contact: Henry Blocker, Jr. (215) 482-9671

Montgomery County, Wine & Spirits Store #4625 (Relocation), King of Prussia, PA

Lease expiration date: Entered 90-day status since February 1, 2010.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 10,000 to 12,000 net useable square feet of new or existing retail commercial space within the King of Prussia and Route 422 area.

Proposals due: June 10, 2011, at 12 p.m.

Department: Liquor Control Board
Location: 7114 Ridge Avenue, Philadelphia, PA 19128-3250
Contact: Henry Blocker, Jr. (215) 482-9671

Montgomery County, Wine & Spirits Store # (TBD) (New Store), Sanatoga, PA

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 10,000 net useable square feet of new or existing retail commercial space approximately within a 0.5-mile radius of US Route 422 (Pottstown Expressway) and Evergreen Road, Sanatoga/Limerick, PA.

Proposals due: June 10, 2011, at 12 p.m.

Department: Liquor Control Board
Location: 7114 Ridge Avenue, Philadelphia, PA 19128-3250
Contact: Henry Blocker, Jr. (215) 482-9671

Northampton County, Warehouse Space (New Facility), Allentown/Bethlehem, PA

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 8,000 to 9,000 net useable square feet of new or existing retail commercial space within the area of Routes 22 and 33 in Allentown/Bethlehem, PA.

Proposals due: June 10, 2011, at 12 p.m.

Department: Liquor Control Board
Location: Room 314, Northwest Office Building, Forster and Capital Streets, Harrisburg, PA 17124-0001
Contact: Ronald Hancher, Jr. (717) 787-9540

Philadelphia County, Wine & Spirits Store #5110 (Relocation), Philadelphia, PA

Lease expiration date: Entered 90-day status since August 1, 2008.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 8,000 net useable square feet of new or existing retail commercial space. Location must be within a 0.5-mile radius of 60th and Spruce Streets in Philadelphia, PA.

Proposals due: June 10, 2011, at 12 p.m.

Department: Liquor Control Board
Location: 7114 Ridge Avenue, Philadelphia, PA 19128-3250
Contact: Henry Blocker, Jr. (215) 482-9671

Philadelphia County, Wine & Spirits Store #5140 (Relocation), Philadelphia, PA

Lease expiration date: October 31, 2013

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 8,000 net useable square feet of new or existing retail commercial space. Location must be within a 0.5-mile radius of Castor and Aramingo Avenue in Philadelphia, PA.

Proposals due: June 10, 2011, at 12 p.m.

Department: Liquor Control Board
Location: 7114 Ridge Avenue, Philadelphia, PA 19128-3250
Contact: Henry Blocker, Jr. (215) 482-9671

Philadelphia County, Wine & Spirits Store #9113 (Relocation), Philadelphia, PA

Lease expiration date: Entered 90-day status since May 1, 2011.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 8,000 to 9,000 net useable square feet of new or existing retail commercial space approximately within a 0.5-mile radius of 19th and Chestnut Streets in Philadelphia, PA.

Proposals due: June 10, 2011, at 12 p.m.

Department: Liquor Control Board
Location: 7114 Ridge Avenue, Philadelphia, PA 19128-3250
Contact: Henry Blocker, Jr. (215) 482-9671

Philadelphia County, Wine & Spirits Store # (TBD) (New Store), Philadelphia, PA

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 8,000 net useable square feet of new or existing retail commercial space approximately within a 0.25-mile radius of 43rd and Chestnut Streets in Philadelphia, PA.

Proposals due: June 10, 2011, at 12 p.m.

Department: Liquor Control Board
Location: 7114 Ridge Avenue, Philadelphia, PA 19128-3250
Contact: Henry Blocker, Jr. (215) 482-9671

Philadelphia County, Wine & Spirits Store # (TBD) (New Store), Philadelphia, PA

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 10,000 net useable square feet of new or existing retail commercial space approximately within a 0.5-mile radius of 33rd and Market Streets in Philadelphia, PA.

Proposals due: June 10, 2011, at 12 p.m.

Department: Liquor Control Board
Location: 7114 Ridge Avenue, Philadelphia, PA 19128-3250
Contact: Henry Blocker, Jr. (215) 482-9671

Philadelphia County, Wine & Spirits Store # (TBD) (New Store), Philadelphia, PA

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 8,000 net useable square feet of new or existing retail commercial space approximately within a 0.5-mile radius of Roberts Avenue and Fox Street in Philadelphia, PA.

Proposals due: June 10, 2011, at 12 p.m.

Department: Liquor Control Board
Location: 7114 Ridge Avenue, Philadelphia, PA 19128-3250
Contact: Henry Blocker, Jr. (215) 482-9671

York County, Wine & Spirits Store #6706 (Relocation), Manchester, PA

Lease expiration date: Entered 90-day status since January 1, 2010.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,000 to 5,000 net useable square feet of new or existing retail commercial space within the area of North George Street in Manchester, PA.

Proposals due: June 10, 2011 at 12 p.m.

Department: Liquor Control Board
Location: Room 314, Northwest Office Building, Forster and Capital Streets, Harrisburg, PA 17124-0001
Contact: Ronald Hancher, Jr. (717) 787-9540
 PATRICK J. STAPLETON, III,
Chairperson

[Pa.B. Doc. No. 11-866. Filed for public inspection May 20, 2011, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by June 6, 2011. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Applications of the following for approval to begin operating as common carriers for transportation of persons as described under each application.

A-2011-2231814. Kleber Ramiro Arcos. (915 Ferry Street, Easton, Northampton County, PA 18042), for the right to begin to transport, as a common carrier, by motor vehicle, persons upon call or demand in the Cities of

Allentown, Lehigh County; Bethlehem, Lehigh and Northampton Counties; and Easton, Northampton County.

A-2011-2231822. Honesdale Volunteer Ambulance Corps, Inc., t/a Honesdale EMS (1079 Texas Palmyra Highway, Honesdale, Wayne County, PA 18431), a 501(c)(3) non-profit corporation of the Commonwealth of Pennsylvania, for the right to begin to transport, as a common carrier, by motor vehicle, primarily wheelchair bound persons for both medical and nonmedical reasons, in paratransit service, from points in Pike and Wayne Counties to points in Pennsylvania, and return.

A-2011-2240538. Donald Edward Robertson, t/a Robertson Towncar Service (636 Springfield Avenue, Folsom, Delaware County, PA 19033), for the right to begin to transport, as a common carrier, by motor vehicle, persons in limousine service, from points in Bucks, Chester, Delaware and Montgomery Counties to points in Pennsylvania, and return, excluding services under the jurisdiction of the Philadelphia Parking Authority.

Application of the following for the approval of the right and privilege to *discontinue/abandon* operating as *common carriers* by motor vehicle and for cancellation of the certificate of public convenience as described under the application.

A-2011-2233428. David Wayne Zellman, t/a Trapper Dave (289 Franklin Road, Mercer, Mercer County, PA 16137), for discontinuance of service and cancellation of his Certificate as a common carrier, by motor vehicle at A-00122138 authorizing the transportation of persons in paratransit service from points in the counties of Lawrence and Mercer to points in Pennsylvania, and return.

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 11-867. Filed for public inspection May 20, 2011, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept bids for Miscellaneous Concrete Material for Project No. 11-033.P, until 2 p.m. on Thursday, June 9, 2011. Information concerning this project can be obtained from the PRPA web site at www.philaport.com under Procurement and will be available Tuesday, May 24, 2011. PRPA is an equal opportunity employer. Firms must comply with all applicable equal employment opportunity laws and regulations.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 11-868. Filed for public inspection May 20, 2011, 9:00 a.m.]

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project No. 11-029.2, Prefabrication and Delivery of Six Backdraft Dampers, Pier 84 South, until 2 p.m. Thursday, June 16, 2011. Information concerning this project can be obtained from the PRPA web site at www.philaport.com under Procurement, or call the Procurement Department at (215) 426-2600.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 11-869. Filed for public inspection May 20, 2011, 9:00 a.m.]

